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TRADE AND DEVELOPMENT BOARD
Standing Committee on Developing Services Sectors:
Fostering Competitive Services Sectors
in Developing Countries
Second session
Geneva, 11 October 1993
Item 2 of the provisional agenda

ADOPTION OF THE AGENDA AND ORGANIZATION OF WORK

Provisional agenda and annotations to the provisional agenda

Note by the UNCTAD secretariat

I. PROVISIONAL AGENDA

1. Election of officers

2. Adoption of the agenda and organization of work

3. Progress report by the secretariat on the implementation of the work programme of the Standing Committee

4. Promoting transparency

   Progress report:

   (i) Development of a conceptual framework for the collation and compilation of internationally comparable statistics (Work programme, item 2(a))

   (ii) The collection and dissemination of information on measures, including laws and regulations, affecting the access of services and service suppliers to world markets, including consideration of the possibility of a computerized database (Work programme, item 2(b))

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5. Fostering competitive services sectors

Comparative analysis:

- A comparative analysis of services sectors in developing countries (Work programme, item 3(a))

Specific studies:

(i) The impact of subsidies on trade in services, especially on the exports of developing countries (Work programme, item 3(d))

(ii) Temporary movement of persons as services suppliers (Work programme, item 3(h))

(iii) Analysis of on-going processes of recognition and harmonization of qualifications (Work programme, item 3(i))

(iv) Regional, subregional and interregional cooperation on services (Work programme, paragraph 3(j))

6. Technical cooperation

- Identification of areas where technical cooperation should be strengthened

7. Provisional agenda for the third session of the Standing Committee

8. Other business

9. Adoption of the report of the Standing Committee to the Trade and Development Board.

II. ANNOTATIONS TO THE PROVISIONAL AGENDA

Item 1: Election of officers

In accordance with the arrangements for the Bureaux of the Standing Committees endorsed by the Trade and Development Board at the first part of its thirty-ninth session (c.f. TD/B/39(1)/15, para. 512), the officers of the Standing Committees "should be elected in accordance with the applicable rules of procedure, taking into account the principles of equitable geographical distribution and rotation." In line with those arrangements, the Standing Committee is required to elect a Chairman, five Vice-Chairmen and a Rapporteur to constitute the Bureau of its second session.

Item 2: Adoption of the agenda and organization of work

The provisional agenda for the second session of the Standing Committee was approved by the second (pre-sessional) executive session of the Trade and Development Board (c.f. TD/B/EX(2)/2, para. 31).

A proposal for the organization of work of the second session is given in section III below.

Item 3: Progress report by the secretariat on the implementation of the work programme of the Standing Committee

The Standing Committee will have before it the "Progress report by the secretariat on the implementation of the work programme of the Standing Committee" (TD/B/CN.4/25), covering the preliminary phase of activities under items (2), (3), and (4) of the Work Programme. It has been prepared with a view to facilitating the tasks of the Committee, as well as to seeking guidance from the Committee with respect to the future orientation of work. The report discusses the possibility of convening an intergovernmental group of experts charged with elaborating a detailed study programme as well as guiding the Committee with respect to its mandate under item 3(e) of the work programme, i.e. to examine ways of enhancing access to and use of information networks and distribution channels .

Item 4: Promoting transparency

Item 4 (i): Development of a conceptual framework for the collation and compilation of internationally comparable statistics (Work programme, item 2(a))

The Uruguay Round multilateral negotiations for a draft General Agreement on Trade in Services (GATS) have given rise to new conceptual and technical implications for statistics on trade in services, arising from the multilaterally agreed definition for service trade which includes four modes of delivery: "cross-border", "movement of consumer", "commercial presence" and "movement of natural persons". The Standing Committee may wish to explore ways to collect information on efforts by member Governments and academic institutions aimed at developing methodologies for estimating trade carried out through the four modes of delivery. The secretariat has prepared a background note on the "Concept of services trade statistics" (UNCTAD/SDD/SER/1). The note discusses the work of agencies involved with services statistics, in general, and trade in services, in particular, and reviews progress towards a conceptual framework at the international and national levels.

Item 4 (ii): The collection and dissemination of information on measures, including laws and regulations, affecting the access of services and service suppliers to world markets, including consideration of the possibility of a computerized database (Work programme, item 2(b))

The Standing Committee will have before it a report entitled "Database on measures affecting service trade" (TD/B/CN.4/26). The report investigates the rationale and utility of a database in this area, describes the basic features and the inputs required, and discusses issues and anticipated difficulties pertaining to the collection and management of data. It also identifies options for building the database and for the organization of the work involved. To facilitate discussions in the Standing Committee, a prototype database is being prepared for demonstration to interested delegations during the session.

Item 5: Fostering competitive services sectors

(a) Comparative analysis

A comparative analysis of services sectors in developing countries (Work programme, item 3(a))

The Standing Committee will have before it "A comparative analysis of services sectors in developing countries" (TD/B/CN.4/23). The analysis draws on previous work of UNCTAD, as well as on specific studies being carried out under item 3 of the work programme. It is intended as a point of departure for work by the Committee on identifying elements for possible policy options aimed at achieving the objectives of the Cartagena Commitment in the area of services. The members of the Committee may wish to make oral presentations on national

experiences concerning: (i) policies and strategies to enhance the domestic services sector, including sub-regional and regional cooperation; (ii) difficulties faced in exporting services; (iii) domestic regulations and measures affecting trade in services; (iv) studies undertaken in member countries on the development of and trade in services. The Committee has also been called upon to assess weaknesses and capabilities of developing countries in specific services sectors, on the basis of studies by the secretariat and information provided by member States, private sector entities and non-governmental organizations. In carrying out this task, the Committee may wish to give particular attention to an assessment of the impact of progressive liberalization of service imports in the development of competitive services sectors, and to an examination of the difficulties which prevent developing countries from increasing their participation in world trade in services (item 3(g) of the Work programme).

(b) Specific studies

Item 5(i): The impact of subsidies on trade in services, especially on the exports of developing countries (Work programme, item 3(d))

Under this item, the Standing Committee may wish to discuss such issues as (i) subsidies on production and trade in services; (ii) service sectors where subsidies may be having a major impact on trade of developing countries; (iii) an approach for identifying subsidies in the service sector; (iv) the problems involved in calculating the impact of subsidies on trade in services; (v) the approach of certain countries to treating the problems of subsidies in the services sector. The secretariat has prepared a background note entitled "Impact of subsidies on trade in services" (UNCTAD/SDD/SER/3).

Item 5(ii): Temporary movement of persons as services suppliers (Work programme, item 3(h))

The Standing Committee will have before it a report entitled "Temporary movement of persons as services providers" (TD/B/CN.4/24). The report describes the "problematique" of trade in services through the temporary movement of natural persons, and examines: (i) the importance of the temporary movement of persons from developing countries; (ii) the sectors where such temporary movement is important; (iii) the general characteristics of immigration laws pertaining to the temporary movement of services suppliers, including the identification of sectors which tend to benefit from relatively more liberal treatment; and (iv) international, regional, subregional and bilateral agreements dealing with the movement of persons. The report offers suggestions for consideration by the Committee regarding further work to identify the possibilities for developing countries to export services through temporary movement of persons.

Item 5(iii): Analysis of on-going processes of recognition and harmonization of qualifications (Work programme, item 3(i))

In addressing this sub-item, the Standing Committee may wish to review initiatives taken at both government and private sector levels to achieve harmonization and recognition of qualifications, as well as laws and regulations in the professional service sector, highlighting those inherent to qualifications and standards. The Committee may wish to examine in greater detail how trade in professional services takes place, with a view to identifying priority sectors for harmonization and recognition of qualifications as well as desirable policy options for developing countries in dealing with this issue. The secretariat has prepared a background note entitled "Harmonization and recognition of professional qualifications" (UNCTAD/SDD/SER/2).

Item 5(iv): Regional, subregional and interregional cooperation on services (Work programme, Item 3(j))

Under this item, the Standing Committee is expected to identify and analyse policies aimed at the promotion of regional, subregional and interregional cooperation in services, including among countries at different levels of economic development. The Standing Committee will have before it a submission by the Andean Pact secretariat (TD/B/CN.4/Misc.4), which describes its initiatives to include services in the Pact's integration efforts. It is expected that similar submissions will be made by other subregional and regional groupings.

Item 6: Technical cooperation

UNCTAD has been providing technical cooperation to developing countries for the development of their services sectors for a number of years. The Cartagena Commitment called for the work programme of the secretariat to focus on "technical cooperation, at the national, regional, and multilateral levels, to support and assist developing countries in identification of their weaknesses and capabilities in the services sector and to make their services sector more competitive" (para. 185(k)). The Committee will consider a report by the secretariat which contains suggestions as to where technical cooperation in services should be strengthened (TD/B/CN.4/25).

Item 7: Provisional agenda for the third session of the Standing Committee

A draft provisional agenda for the third session of the Standing Committee will be before the Committee for its consideration.

Item 8: Other business

Item 9: Adoption of the report of the Standing Committee to the Trade and Development Board

Paragraph 15 of the terms of reference of the Standing Committee states that the Committee "shall submit periodic reports to the Trade and Development Board on its work".

III. TENTATIVE ORGANIZATION OF WORK

Monday, 11 October	a.m.	Opening of the session
		Item 3: Progress report by the secretariat on the implementation of the work programme of the Standing Committee
		Item 4: Promoting transparency
	p.m.	Item 4 (continued)
Tuesday, 12 October	a.m.	Item 4 (continued)
		Item 5: Fostering competitive services sectors
	p.m.	Item 5 (continued)

Wednesday, 13 October	a.m.	Item 5 (continued)
	p.m.	Item 6: Technical cooperation
Thursday, 14 October	a.m.	Conclusion of consideration of items 3, 4, 5 and 6 Item 8: Other business
	p.m.	No meeting, to allow time for the preparation of the draft report
Friday, 15 October	a.m.	Idem.
	p.m.	Items 3, 4, 5 and 6 (concluded) Item 7: Provisional agenda for the third session of the Standing Committee Item 9: Adoption of the report of the Standing Committee to the Trade and Development Board

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TRADE AND DEVELOPMENT BOARD
Standing Committee on Developing Services
Sectors: Fostering Competitive Services
Sectors in Developing Countries
Second session
Geneva, 11 October 1993
Item 5 of the provisional agenda

FOSTERING COMPETITIVE SERVICES SECTORS

A COMPARATIVE ANALYSIS OF SERVICES SECTORS IN DEVELOPING COUNTRIES

(Item 3 (a) of the work programme)

Prepared by the UNCTAD secretariat

GE.93-53046 (E)

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1. Grouping of Producer Services According to the Production Function

2. Producer Service Centres: An Example

INTRODUCTION

1. Item 3 (a) of the Work Programme instructs the Standing Committee to "conduct a comparative analysis of service sectors in developing countries; such analysis will: (i) examine the role played by services in contributing to growth and sustainable development, including an examination of the contribution of the producer services sector in facilitating the competitiveness of goods-producing sectors, and to the economy as a whole; (ii) assess weaknesses and capabilities; and (iii) identify policies to assist developing countries in developing and strengthening their competitive services sectors, including infrastructure relating to services."

2. The secretariat has prepared this background note with a view to facilitating the work of the Committee in this regard. It is primarily a synthesis of the findings of work carried out in UNCTAD. The note has been guided by the Cartagena Commitment which clearly recognized the need for developing countries to pursue policies to create appropriate conditions for the development of their national services sector and encouraged the international community to support the efforts of national Governments to strengthen the production and export capacity of the sector. The purpose of this note is to provide a point of departure for further work under this sub-item, as well as for the various studies to be prepared under other items of the Work Programme of the Standing Committee. The identification of policies, envisaged under (iii) above, is expected to emerge as a result of this process.

3. The note draws heavily upon previous work carried out in UNCTAD in a series of national, regional and sectoral studies on services. While not constituting a systematic investigation of service sectors in developing countries, they were specific responses to a variety of needs of individual countries and regions, limited by the objectives of individual projects and the extent of financial resources. This is reflected in the note. The recommendations made are of necessity tentative, mainly aimed at assisting the Committee in determining the orientation of future work with respect to analysis and policy options.

PART ONE

COMPARATIVE ANALYSIS OF THE SERVICE SITUATION IN DEVELOPED AND DEVELOPING COUNTRIES

4. In terms of their contribution to the growth and sustainable development of countries and the contribution made by producer services to the competitiveness of the goods sectors and to the economy as a whole, services perform a central function in the adjustments which economies have had to make in order to gain a competitive position in the world economy. This has given services a new strategic role that transforms them into decisive factors in the generation of value added to the economy and in the creation of competitive advantages. This chapter compares the situation of services in developed and developing countries and identifies the main features, elucidating the strengths and weaknesses of developing countries in this matter.

I. The Strategic Role of Services in Developed and Developing Economies

A. The traditional role of services

5. The provision of physical infrastructural services such as telecommunications, transportation and essential utilities, together with social infrastructure such as health, housing and education, as well as the availability of financial services have traditionally formed an integral part of national development strategies. Policies with respect to these sectors have been strongly influenced by considerations of national security, attainment of particular strategic objectives, ensuring the widest possible access of the population to essential services, and providing the necessary infrastructure for various economic activities. These considerations have led Governments to assume a major role in services provision as well as in regulating it. The need to reconcile this complex set of objectives with that of economic efficiency raises a dilemma.

6. As considerations of economic efficiencies and international competitiveness have become predominant, this dilemma has become more acute. There is an increasing awareness that inefficiencies arising in the provision of any basic service necessarily affect the competitiveness of firms using that service. This has called into question the role and priorities of Governments and the need for new forms of regulations. The concern for ensuring quality, reasonable prices and adequate coverage of a service, while at the same time adapting it to technological advances, places the service supplier under pressure to improve management and operational efficiency. The inability of many state monopolies to meet this challenge have given rise to policies of privatization of state monopolies and to the increased participation of foreign ownership and management.

7. Many countries are facing the need to formulate policies to deal with these issues. In this respect they might be greatly assisted by sharing the experiences of countries which have implemented policies of deregulation and privatization, as foreseen in item 3 (b) and 3 (c) of the work programme 1/ and the work of the Ad Hoc Group on Privatization.

B. The developed countries and the "services revolution"

8. In the 1970s, economists began addressing the phenomenon of the relatively greater growth in employment - and to a lesser extent GNP - generated by services (in comparison with that generated by manufacturing and agriculture) in developed economies.

9. In addition to high growth rates in services, there is also an increase in the value added incorporated into merchandise exports, and increases in human capital per worker (education and training) incorporated in goods. Trade in intermediate services is similar to trade in intermediate material goods in that both these types of intermediate inputs are indispensable to the production process and are often major sources of comparative advantage in manufacture for export. Furthermore, intermediate service inputs are used by all industries and their development is closely linked to the existence of comparative advantage based on other factors. 2/ To a certain extent, high growth rates in services may be explained by the income elasticity of demand for services, notably consumer services (entertainment, health, travel, tourism, etc.), as well as by the relatively low productivity of labour employed in the service sector. 3/ This type of analysis gave rise to concerns about the negative implications of the expansion of service sectors for the productivity of the economy, prospects for economic growth and sustained increases in real incomes (a process often termed "deindustrialization").

10. However, a second, more dynamic aspect to the service sector in modern economies concerns the major restructuring of the production process, of corporate strategy, and of labour markets. One manifestation of the evolution of the production process has been the emergence of the "producer services" sector as a growth sector of the industrialized economies. Professional business services had registered particularly high growth rates in the late 1970s and 1980s. This was quite marked in the United States of America where a relatively high proportion of new jobs was for the highly educated and well paid. Much of this can be explained by the implementation of information technology in the economy as a whole. Innovation is mainly by small specialist firms, a phenomenon better developed in the United States, accounting for their large growth rates in this period. Legal services, for example, grew by 106 per cent between 1980 and 1991, and business services by 67 per cent. 4/

11. The result is a process of feedback between technological progress and specialization. The demands of a more competitive environment (which, in turn, results from internationalization and deregulation) provide the necessary stimuli for technological progress to focus its creativity on developing new and better services, more "knowledge-intensive" and tailored closer to the requirements of the production and distribution processes. These new and enhanced services - generally associated with new information technologies - increase productivity for both goods and other services. They also facilitate the application of new management techniques, make relations between the various stages of design, production and marketing of products and services more expeditious, allow customized services to appear, help to generate greater economies of scale and facilitate an efficient globalization of the production and distribution functions. Competition - increasingly

based on access to and adaptation of technology - has provoked a growing demand for producer services. Technological progress has paved the way for a high degree of specialization while streamlining operations and the management of production units. The producer service sector lies between the infrastructure and the producer. The role of producer services is to assist the producer in using the infrastructure and in adapting technological advantages to specific needs. Analysis of employment in the service sector in the industrialized countries has demonstrated a dual structure with one component characterized by low wages and low-skilled part-time work, and the other - mainly the knowledge-intensive producer service sector - consisting of high skills and creative activities closely linked to the needs of the manufacturing sector.

12. The central manifestation of this phenomenon occurs with the "externalization" of a vast range of services which are required as inputs to the production and distribution of goods. These had hitherto been provided from within the production unit. Externalization has taken place at two levels. First, services produced internally are increasingly replaced by "outsourcing" (the purchase of specialized services from other firms). Secondly, the internal services operations of enterprises have been sold to outside customers, a process that has led to the establishment of subsidiaries which then sell their services both to the parent enterprise and to the open market ("spin-off" effects fed by accumulated knowledge and experience in the parent firm). This trend has been stimulated by the following factors: (a) the outside firms can make themselves more efficient through specialization; (b) staff cuts and outside production reduce the fixed operating costs of an enterprise, including those of training persons in the application of new technologies; (c) firms resort to acquiring licences or purchasing technology in order to produce savings on research and development (R&D). 5/ Information technology facilitates the operation of small and more specialized production units and firms.

13. In most of the developed countries, technological progress and greater competitiveness have been the cause and effect of the trend towards deregulation and/or simplification and updating of the regulatory machinery, making possible a more flexible and more adaptable integration of services into productive functions. Furthermore, with the growing complexity of service activities, the role played by Governments as providers of basic services is shrinking; their place is being taken by private agents. In this new context, Governments retain for themselves the important role of regulators, 6/ ensuring the sound operation of markets and the protection of consumers. 7/ This development is transforming relations between suppliers and users of services. First, it facilitates the emergence of a range of new services, which were much less available in the market until recently (because they were internalized); secondly, it generates a new demand for those services which have now been externalized. This is a basic characteristic of the externalization of services and the development of specialized firms capable of supplying efficient and innovative services at more acceptable prices and offering higher standards of quality and reliability. The new firms providing such services, in turn, can maximize profits through economies of scale and the scope derived from their different form of organization. 8/

14. New information technologies have rendered many services increasingly tradeable. "Knowledge-intensive services" can be exchanged through telecommunication networks. More and more people are crossing international frontiers either to render or to receive services. The opening of branches and subsidiaries of service firms or the provision of services through franchising and other management contracts is being facilitated by improvements in international information networks ("networking"). Little of this is reflected in conventional international trade statistics. Many transactions go unrecorded, despite the fact that they are an important component of the total revenues of enterprises and individuals. The establishment of international networks has led to substantial economies of scale and of scope; greater value added is created; many of the limitations hitherto imposed by the exigencies of direct personal contact between users and providers are eliminated. 9/

15. These developments have greatly enhanced two new dimensions of services: first, the proper integration and utilization of modern and efficient producer services in the production process is a key ingredient of competitiveness, both for firms and for the economy as a whole; secondly, producer services have become an important, if not the main, source of value added. This fact is partially reflected in the national accounts, especially of developed countries, by the growing share of producer services in GDP. These two factors lie at the heart of what is called the "services revolution". 10/

C. The new services economy and the developing countries

16. According to balance-of-payments results, countries may be grouped under three categories in terms of the role of services in the external sector. The first group comprises a large number of exporters of raw materials, which usually show a surplus in trade in goods and a deficit on services. A second group consists of countries which show a deficit in trade in goods and in most "other services", but surpluses under the heading of "workers' remittances" and "travel", activities which depend on the international movements of persons. The third group is smaller and includes a few Asian countries which have shown rapid economic growth. Their surpluses on services had previously offset their deficits on goods, although in recent years rapid growth in the export of manufactures has demonstrated complementarity between the two flows - exports of services support exports of goods; exports of goods support those of services. 11/

17. A general conclusion may be drawn from the foregoing: in many developing countries, services do not make a positive contribution to the external sector except where there are benefits from an active international movement of persons arising either when their own nationals render services ("workers' remittances") or when others act as consumers of their services ("travel"). Furthermore, countries with more vigorous growth in exports of manufacturers exhibit traditional strength in their trade in services. The characteristics of the international services trade of the developing countries appear to reflect the internal weaknesses of their goods and services sectors. An inadequate infrastructure, especially of telecommunications, and the lack of trained personnel have impeded the diffusion of new technologies, delaying the establishment of structures through which knowledge and "know-how" are disseminated, and customized services to suit specific enterprises' needs are

created and developed. This situation has delayed the domestic development of many producer services, increasing their reliance on "imported" services (often imported through subsidiaries or branches of transnational corporations) whenever foreign exchange availabilities permit.

18. Another aspect of the problem relates to the slowness of the "externalization" process for many producer services and the marked absence of domestically produced "knowledge-intensive" services. Excessive centralization in the operation of corporations or the existence of closed intra-firm circuits prevents the generation of an active and vigorous demand for such services. Furthermore, it keeps knowledge of, and access to, certain services captive within big corporations. The existence of accumulated "locked-in" knowledge amounts to a squandering of resources by inhibiting the fruitful use of positive externalities by the rest of the economy. Slowness in "externalization" means isolating these functions from market signals. Supply and demand forces are ignored, diminishing the potential of producer services for higher productivity, greater competitiveness and more value added, both at the firm level and at the national level.

19. In contrast to what has happened in the developed countries, many developing countries have still not managed to join the "services revolution". Thus strengthening competitive services in the developing countries is a matter of overcoming the problems presented by financial shortages, under-utilization of market mechanisms, insufficiently qualified human resources and inadequate access to new technologies.

II. Producer Services in Developing Countries

20. Increased competition based on trade liberalization, combined with technological advance, creates demand for both efficient infrastructural services (as noted above) and producer services. In developed countries, the producer services sector has evolved autonomously, conducted by the firms themselves – based on competition-driven demand and technology-driven supply. Demand has thus stimulated the need to adapt to competition in the domestic market and to take advantage of export opportunities. The supply of producer services comes from knowledgeable individuals who are capable of adopting technology and of using the infrastructure. To a large extent, the supply of services in developed countries has emerged from the manufacturing and agroprocessing sectors through the process of externalization.

21. The contribution which producer services make to competitiveness in the goods-producing sectors and to the overall economy in the developing countries may well be affected by the speed at which these countries have been brought into a much more competitive international setting. Most of the developing countries that have carried out programmes of structural adjustment, including liberalization of their regimes for both trade and investment, have done so in short periods of time and under pressure from outside. This has rendered more difficult the adaptation of domestic supply to new demands for producer services and the possibilities of their being produced by national firms. This contrasts with the situation in developed countries where autonomous adjustment carried out over several decades has enabled knowledge-intensive producer services to evolve and "spin off", as described above. Likewise firms could gradually and autonomously incorporate producer services into

their operations pari passu with technological changes and transformations in the organization and management of production required in a more competitive environment.

22. The increasingly competitive setting in which the developing countries' economies are evolving has acted mainly as a stimulant to demand for producer services. Owing to the absence of sufficiently skilled persons, managerial attitudes biased against externalization, inadequate infrastructure, inadequate access to technology and the (correct or incorrect) perception that domestic service suppliers are inadequate for various reasons, the domestic supply of such services has not always been able to evolve naturally to meet this growing demand. This has forced enterprises to make use of imported services. The effect is to reduce the chances of keeping the value added generated by producer services, especially in tradeable sectors where the incorporation of efficient and competitive services is crucial to their survival.

23. UNCTAD has supported a series of national and regional studies on the state of producer services in various developing countries. Some of these studies have concentrated on the demand for producer services generated by some productive activity of particular interest to a given country, 12/ while others addressed aspects of the supply of producer services. 13/ Other studies approached the review from the standpoint of both supply and demand. 14/ All these studies, however, form no more than a starting point from which to examine the situation of producer services under particular conditions. Research could be explored more thoroughly, through methodological development, the improvement of statistics and the pursuit of specific research projects.

24. The particular situation of a group of least developed countries, characterized by serious difficulties in terms of telecommunications, human resources, physical infrastructures and, in some cases, even unfavourable geographical location, is being examined by studies in progress. These could be used to produce a more comprehensive report in the future. 15/

25. The examination of the qualitative and quantitative aspects of the supply of, and demand for, producer services in different sectors of production provided information with respect to: degree of internalization and externalization of services; their market structure; competitiveness level; and the internal and external obstacles confronted by suppliers and consumers in the home market. The methods applied in these studies are far from uniform, making comparative analysis a difficult matter. There are substantial differences in such factors as sample size, classification of firms, sectors, features and level of replies obtained.

A. Demand for producer services

26. To a large extent producer services are essentially demand driven, generated by the needs of other sectors of the economy, including service sectors. Producer services will be in demand to the extent that the activities using such services operate in a setting that is vigorous and competitive enough to require them. A perusal of the studies prepared by UNCTAD reveals the existence of a dual development of producer services in the

developing countries. In most of those countries, several modern economic activities which rely on technological change and which normally compete in the international markets coexist with other activities which are technologically backward and traditional in their managerial and hierarchical structures. The latter have traditionally benefited from protection, and have not undergone the productive transformations necessary for competitiveness in international markets.

27. It was found that many enterprises – potential demanders of services – resist change and maintain a high degree of internalization of services. There are various reasons for this, including: the low level of competitiveness at which they operate; the fact that the firm considers that its own staff interprets its needs better than outside suppliers; entrepreneurial failure to perceive the economic advantages of "externalizing"; the low level of assimilation of new technologies; concerns over confidentiality; lack of confidence in the reliability of outside suppliers; high cost and/or inadequate quality of available producer services, and absence of policies encouraging the entrepreneur to externalize particular services. Even so, many firms had expressed a desire to externalize certain services, especially the following: R & D, market research, legal services, repair, maintenance and hire of equipment, quality control, data, engineering and consulting services, transport, financial services and training. 16/

28. Producers in the developing countries studied have taken different approaches towards producer services. The extreme approaches are: (a) to maintain many service functions internalized (this has been possible mainly for large firms), and (b) to adopt a passive position and allow foreign firms to supply all the producer services with a consequent loss of autonomy, value added and no benefits in terms of learning or transfer of technology. Firms exposed to international competition are highly dependent on foreign service providers for obtaining high quality services. They acquire their services via internationally integrated chains, intra-firm arrangements, through branches of transnational corporations or through their own customers under subcontracts. An extreme case of reliance on imported services has been observed in certain textile and citrus fruit and pineapple processing concerns, where the producer takes an essentially passive attitude, often depending entirely on services provided by the buyer of its products. 17/ Services obtained from such single buyer include design, quality control, international marketing and management consulting.

Box 1

Grouping of Producer Services according to the Production Function

In the administrative function, comprising bookkeeping, auditing, legal services and planning, internalization increases with the size of the enterprise. In many cases, reasons of strategy and confidentiality are given, especially in the case of large-scale enterprises. Small enterprises tend to internalize such services less, for reasons of cost; they are generally performed by one individual. Large-scale (and some medium-sized) enterprises have specialized departments.

The technical services function includes the services of engineering, R & D, quality control, maintenance and storage. These functions, which are of vital importance regardless of the size of the enterprise, are lacking in many small and medium-sized enterprises. Sometimes, where they are performed at all, this is done by the workers themselves. The large-scale enterprise in which such services are well structured is a case apart. In many sectors, R & D and quality control are non-existent or of poor quality for lack of skilled professional workers. Some industries report that this situation has affected their ability to adjust the supply of their products to the requirements of demand, in both local and foreign markets. In the sectors where there are foreign partners, these services, although internalized, are rendered under the guidance of outside firms. A striking case is that of subcontracting in offshore processing activities. These activities develop a kind of "passive" entrepreneur, for many of the functions are performed virtually entirely by the subcontractor. Something similar happens with the sale of engineering services, which are provided as "after-sales" services by the enterprise selling the equipment or machinery.

The functions of services connected with presence in the market include, among others, marketing, export services and transport. Transport forms an exception; the remaining services are highly internalized, especially where production is aimed at the home market. Export services present contrasts. In some large and medium-sized enterprises, marketing is carried out in the enterprise itself with the support of State agencies; in others, as in the case of subcontracting and enterprises with foreign partners, marketing is integrated in the trading partners' chain. Small and medium-sized enterprises report as a crucial problem of access to foreign markets, the lack of commercial information and the training of staff to equip them to pursue commercial information-gathering in foreign markets. Trading companies fill this gap in some countries.

Source: "Tunisia: National Study on Services", (mimeo).

B. Main characteristics of the supply of producer services

29. Much of the demand for producer services in developing countries has been met by foreign service providers, explaining the lack of vigour characterizing the supply of national producer services in the developing countries studied. Integrated systems of services applicable to production have not evolved; the connections between services and other sectors are not generally

perceived. 18/ Small and medium-sized enterprises in some categories of producer services are often perceived to be weak in respect of their ability to: 19/ (a) respond to the needs of the market and take advantage of them by offering more efficient services at lower cost than their competitors; (b) design, adapt and establish their operations at high levels of efficiency and productivity; (c) recruit and train highly skilled staff; (d) assimilate, adapt and apply new technologies that will enable them to reach higher levels of efficiency, productivity and competitiveness; (e) identify exportable services and foreign markets; (f) generate or obtain financing and working capital; (g) face strong competition from foreign suppliers or from State or semi-State monopolies. In addition, they sometimes operate in an inadequate regulatory system and an unfavourable economic environment. For all these reasons, these enterprises often survive by serving "second-class" customers in the home markets without any possibility of competing in international markets.

30. More than half the firms surveyed were less than five years old, generally low in efficiency and productivity, and had to compete with a few large-scale firms enjoying a large market share and generally some foreign capital. The latter firms can thus develop high-quality services at relatively low cost. This applies to accounting and auditing services, advertising, services providing information on value added, specialized consulting and financial services as well as services assembling and operating information networks. Many of the large firms are branches of foreign enterprises or national enterprises operating under various types of agreements such as franchises, exploitation of registered trade marks, patents, etc.

31. A feature of particular interest in the generation of a larger supply of services was observable in certain processing industries and others connected with the extraction of natural resources. In these cases, the main producers had generated their own service enterprises which, in addition to meeting the needs of the main firm and of others in the home market, had also begun exporting. 20/

32. The producer service sector can provide employment for skilled persons, particularly those who are conversant with new information technologies.

PART TWO

COMPONENTS FOR A POLICY OF STRENGTHENING SERVICES IN THE DEVELOPING COUNTRIES

I. Domestic Strategy

A. Context

33. Policy options for fostering competitive services sectors in developing countries and for their gaining an increased share of international trade in services will have to confront the questions of (a) financial resources, (b) the use of market mechanisms, (c) human resources, (d) access to new technologies, and (e) the participation of foreign providers. These issues are discussed in the following paragraphs.

(a) Financial resources:

34. Generally speaking, Governments and enterprises in developing countries lack the financial resources needed to tackle the modernization of services, while external financing schemes commensurate with the needs are generally not available. These problems are exacerbated in the case of heavily indebted developing countries, where adjustment programmes have further reduced the already scanty resources available for the expansion and renovation of basic infrastructure and where firms have difficulty raising resources in foreign markets. The chronic shortages of financial resources in developing countries have seriously affected their investment capacity to develop services compatible with the requirements of an efficient modern economy. The situation worsens in the case of those sectors transformed by advanced technologies where costly investments are needed to update their operation and management, including modernizing the necessary infrastructure. By way of illustration: in maritime transport, containerization entails the modernization of cargo-handling plants; 21/ in banks and financial services, global transactions depend on investment in telematic technologies, while the expansion of customer services requires sophisticated electronic equipment; 22/ in telecommunications, the development of value-added services entails expanding the basic network and introducing fibre optic cables; air transport and tourism are facilitated by the establishment of networks of computerized reservation systems, the development of facilities suitable for multimodal transport and the expansion and improvement of infrastructure at airports to facilitate passenger traffic and cargo handling. 23/ Another dimension of this problem relates to the financial management of many service enterprises both public and private. Firms are unable to generate their own resources when they cannot maintain profitable levels in their current operations; those in heavily indebted countries are unable to tap domestic resources that would enable them to cover their requirements for investment and working capital. In the case of public enterprises, many Governments are adopting policies of privatization aimed at improving management while reducing the financial pressure on fiscal resources. 24/ New service firms, in particular those that are knowledge-intensive, usually lack sufficient tangible assets to be used as collateral for bank credits. Such enterprises generally regard their human resources as their main capital. 25/

(b) The use of market mechanisms:

35. The development of efficient and competitive services may be assisted by a better utilization of market mechanisms with respect to the allocation of resources, price determination and the appropriate use of supply and demand forces in the "clearing" of markets. This would help increase the financial soundness of many service operations. In many countries those mechanisms are still in limited use for several service activities. The reasons for this scant use of market criteria are varied and complex. To a certain extent they reflect Governments' commitment to complex and ambitious objectives of integral development. Thus, they create a wide gap between private and social return for many services. Many developed countries have narrowed this gap by the extensive use of cross-subsidization for many basic services. Developing countries cannot always make use of such a tool.

36. In other cases, the poor use of market mechanisms is reflected in the concentration of demand in a small number of large-scale, generally monopsonic, users. In others, large-scale enterprises became self-sufficient units through the vertical integration of their operations. A defective market structure is not necessarily connected with the State ownership of particular services or with the monopsonic nature of demand for them. Many services rendered by the private sector exhibit clear examples of market concentration on the supply side, which does not always contribute to a better and more efficient integration of services with the production process. This is the case for professional services such as: advertising; accounting and auditing; 26/ computer-related services and software; 27/ and insurance and banking. 28/

37. Better utilization of market mechanisms may be achieved through changes in the regulatory framework that affects market entry, the behaviour of firms and the establishment of monopolies. Regulatory mechanisms vary from country to country and from sector to sector. Market entry regulations range from the establishment of standards on professional qualifications to limiting the entry of operators through the granting of licences (e.g. air transport) or the establishment of public or private monopolies (e.g. telecommunications and public services). Regulations affecting firms' behaviour may include: price-fixing practices of utilities (electricity and water), limiting the range of services offered (banking and insurance) or restricting the geographical coverage of service providers (road and urban transport, banking). 29/

(c) Human resources:

38. Shortage of qualified human resources in many developing countries constitutes a major obstacle to the development and strengthening of competitive services sectors. Suitable educational facilities are essential in order to meet the personnel requirements imposed by the technological transformation of many services, especially in the area of higher technical education. Various studies emphasize the urgent need to increase educational investment, to improve curricula in line with the requirements of the productive sectors and to upgrade the quality of equipment and facilities of the educational system. 30/

39. Although many developing countries have relatively high literacy rates and in many cases have a substantial number of highly skilled professionals, 31/ there are still shortages of personnel properly qualified to perform a number of productive tasks. This has been observed in such varied services as hotel and passenger transport services, advertising, auditing, insurance, banking and other financial services and computer services. 32/ In many service activities, "on-the-job" training is almost the only recourse. This means that training must be decentralized in order to adapt it to local market conditions, facilitating both the dissemination of knowledge and skills to the industry and, at the same time, realizing the export potential of skills which are not being properly used.

40. In view of these considerations, some developing countries have taken advantage of the presence of transnational corporations to include commitments to train the local workforce in the agreements they conclude with those corporations. Joint ventures, management contracts and the like have proved to be efficient means to promote "in-job training" in tourism, 33/ computer services, 34/ construction services and others. Furthermore, a few countries have become successful exporters in these activities, making good use of their associations with foreign enterprises by including performance requirements which have contributed to raise the skills of their own manpower. It will be noted that the role of joint ventures in stimulating the development of service sectors in developing countries and promoting trade in services and their access to technology will be examined under item 3 (e) of the Work Programme of the Standing Committee. 35/

41. Few studies have analysed the contribution of transnational service corporations in the area of human resource development; the need for thorough case studies of this subject is accordingly plain. 36/ Other traditional problems of the developing countries in the matter of human resources arise in connection with brain drain. In most cases this problem is very costly for the developing economies. It may be solved in part by creating incentives to stem the loss of highly educated people and in other cases by creating sufficiently desirable conditions to attract skilled foreign professionals as a means of improving the human capital endowment of the country. 37/

(d) Access to new technologies:

42. Advances in technology permit the creation of new competitive advantages. For example, in maritime transport, and particularly with regard to containerization, new technologies allow the development of functions that determine overall competitiveness, such as computerized control of operations and the application of new organizational and administrative techniques, all of which are only possible when there is ready access to modern telecommunications technologies. The competitiveness and efficiency of maritime transport operators are largely determined by the availability of such technologies in the environments in which they function. Although developing countries are great users of containerization, their share as suppliers of these services is very modest. 38/ For audiovisual services, access to new technologies used in subtitling films for cinema and TV, film copying techniques and signal transmission systems based on the use of fibre optics, cable television, HDTV and others are essential in order to compete. 39/ In auditing services, access to new auditing and accounting

techniques are important to the competitiveness of enterprises. 40/ Many small firms from developing countries are not able to access such technologies and therefore find themselves ill-equipped to compete. A few countries have tried to circumvent this problem by stationing their staff abroad and carrying out programmes on the equipment owned by users of their services in other countries. 41/ In the case of insurance, it is increasingly clear that competitiveness is based on the design of highly sophisticated products, the development of new techniques for assessing industrial risks, the improvement of capacity to design reinsurance schemes and the improvement of distribution and data processing systems. All these functions are highly dependent on new technologies. Shortcomings in this area have impeded the development of insurance companies in several developing countries. 42/

43. A few developing countries have managed to accede to new technologies through special agreements concluded with transnational corporations operating in their territories. When the host countries' capacity for assimilation, adaptation and dissemination permits, the introduction of appropriate clauses in joint venture arrangements may facilitate access to new technologies. In many cases, however, their introduction is weakened by high market segmentation in which large service TNCs are the exclusive providers for other TNCs. This applies to many professional and business services as well as banking, insurance, transportation and others.

(e) Participation of foreign providers:

44. Increased participation of foreign service providers can contribute to alleviating financial restrictions, increasing competitiveness in domestic markets, training and improving human resources, promoting the transfer of technology in the field of services, and promoting access to international information networks and distribution systems. Conversely, there may be instances where foreign participation is seen as being in conflict with the attainment of a Government's macroeconomic and social objectives and its policies with respect to specific service sectors. Developing countries have demonstrated a desire to prevent foreign enterprises from gaining a disproportionate dominance in local markets, so as to stifle the development of domestic enterprises, particularly where new, knowledge-intensive services are concerned, to resort to unfair trade practices, to provoke an undesired impact on the balance of payments, (arising from the repatriation of profits, intra-firm transactions, the purchase of inputs abroad and/or the use of transfer-pricing among its various branches and subsidiaries). For example, it may be necessary to limit the reinvestment abroad of insurance premiums obtained in the domestic market 43/ or to offset the cultural impact of foreign audiovisual services, 44/ especially when their presence is associated with cartelization and anti-competitive practices. Particular policies are needed to deal with conflicts which may arise between the objectives of the transnational corporations and those of the host countries.

45. The foregoing observations demonstrate the need for thorough studies of the positive contribution that can be made by greater liberalization of international markets for services. Efforts should be made to ensure that their participation is not limited to cornering the most profitable segments of national markets, and thus impeding the development of efficient domestic

services but, on the contrary, to ensure that they become an agent for change and modernization in the markets for services of the developing countries.

46. The Uruguay Round General Agreement on Trade in Services presents a framework in which foreign service providers can have secure market access and national treatment through negotiated bound commitments included in the Schedule of Commitments. This framework also permits developing countries to limit such concessions to those sectors where foreign providers are deemed desirable for the development programmes, and to obtain specific commitments from the suppliers benefiting from such access as well as reciprocal concessions from their trading partners.

B. General framework

47. Governments have at their disposal a set of instruments with which to stimulate the development of competitive services sectors. Some of these - such as exchange, trade, fiscal and credit policy - fall within the scope of macroeconomic policies. Others may necessitate changes in the institutional and regulatory framework, while the attainment of more specific objectives may call for particular strategies aimed at positioning national enterprises in the international market.

48. Exchange rate management is a vital instrument for stimulating the competitiveness of any economic activity. Services, being intangible, are much more vulnerable to ill-conceived exchange policies, and consequently may be seriously affected by the maintenance of overvalued or undervalued exchange rates. In many cases, this phenomenon merely feeds the foreign currency black market, severely depresses activity, impairs the competitiveness of locally produced services and favours cross-border rendering of such services or their consumption abroad. Highly volatile exchange rates, in turn, discourage the pursuit of such activities in the local market by introducing large elements of risk. Tourism is an activity particularly sensitive to exchange rate instability. 45/

49. The incorporation of "imported" services to assist the attainment of the objectives of sustained development, whether by protecting the environment, 46/ facilitating access to new technologies, information networks and distribution channels or improving capacity for training and the generation of domestic know-how, may also be an important component of development policy. Such has been the experience in joint-venture-type arrangements for the development of the construction industry in some developing countries, which have facilitated both the temporary movement of manpower and the transfer of technology on favourable terms. 47/ In this case the objective is a mutually beneficial association between the foreign investor and the host country, specifying the parameters for the fiscal, credit and operational treatment of enterprises which are partly or wholly foreign-owned. Policies with regard to trade in goods have also had a marked effect on the evolution and development of services. Imports of equipment and inputs for various service activities, especially high technology products and those which support the telecommunications infrastructure, need a sufficiently liberal regime not to thwart the development of the services that depend on such inputs. 48/

50. The regulation of many service activities is not always adequate in developing countries. Some service activities have developed vigorously, precisely because standards and regulations have been laid down for them. For example, such services as auditing and bookkeeping benefit from the accounting standards which the State imposes on enterprises for tax or other purposes. The use of quality control services is often stimulated by the application of certification standards imposed by the State or by the sector's own trade associations on exporters of particular products. An appropriate legal framework for the protection of intellectual property is another normative consideration that may support the development and utilization of home-generated services. 49/ Regulations directed towards the protection of the environment are also giving rise to a new demand for what are essentially producer services in developing countries. 50/ The issue of regulations is to be studied in detail at a later stage under item 3 (b) of the Committee's Work programme.

51. In some services, especially those which are knowledge-intensive and consequently dependent on technological factors, the most successful experiences 51/ reveal that an important role is played by Governments in developing these activities for both the domestic and international markets. 52/ Direct subsidies, government procurement, tax incentives and other mechanisms are used by Governments for these purposes. Fiscal or credit support may be indispensable to overcome the problems of certain firms lacking physical assets with which to back their loan applications.

C. Specific strategies

52. Strengthening services entails devising and applying specific strategies to overcome the weaknesses characteristic of the basic infrastructure and of producer services in developing countries.

(a) Modernization of the telecommunications infrastructure

53. Most of the developing countries are implementing policies to modernize and upgrade basic infrastructures (e.g. telecommunications, ports, airports, highways, irrigation works, power infrastructure, etc.), to develop environmental protection services such as waste-water purification or the reduction of pollution in road and air transport, 53/ and to improve the country's human resource base by upgrading the education system. A modern and efficient telecommunications infrastructure capable of supporting – at low cost – the domestic and international development of such varied services as banking, transport and other services that are direct users of such networks is indispensable. 54/ The absence of such an infrastructure stifles the possibility of increasing a country's share in world trade in services, in terms of both exports to foreign markets and access to advanced imported services. A strategy followed by some countries to increase investment in telecommunications infrastructure (financing, equipment and expertise) has been the application of the BOT system, 55/ under which the responsibility for building and operating such networks is handed over to national or foreign private enterprise.

54. Some countries have used innovative schemes in privatizing telecommunication services in association with foreign capital. 56/ This

is reported to have yielded new management techniques, technological improvements, cost reductions and wider coverage of the services concerned. 57/

55. A matter of concern centres upon possible widening of the existing gap between the developing and the developed countries telecommunications. Whereas the former are still trying to catch up with the great technological leap brought about by the digitalization of telecommunications, the developed countries are already building the new fibre-optic networks that will enable them to transmit far more information, and far more complicated information, in pulses of light. Virtually every type of digitalized information can be transmitted in this way, whether in the form of images, sound or text, including that from high-speed computers. Information services will flow at different paces and volumes in developed and developing countries simply as a result of the differences in basic telecommunications infrastructure.

(b) Producer services

56. The fragility of the domestic supply of producer services and, to a lesser extent, the inability to express a demand for such services restrict the chances for adapting domestic economic activity to the requirements of efficiency and competitiveness in a vigorous and increasingly globalized economy. Producer services are the decisive link in the value added chain. 58/ With this in view, enterprises are developing "tailor-made" competitive strategies. These strategies are based on such factors as the competitive structure of the industry in which they operate, their position in that industry, and clear identification of their particular sources of competitive advantages. They are obliged to explore the possibilities of creating advantages by seizing the opportunities presented by new technologies, the new and changing requirements of their customers, the emergence of new segments or niches in industry, changes in the cost or availability of inputs and changes in government regulations. Furthermore, the strategies should be oriented towards gaining a position in good time to take advantage of structural changes, then perceive and pursue innovation and sustain the advantages over time.

57. Developing countries have launched programmes of structural adjustment in order to create a setting that is more favourable to greater competitiveness and efficiency in their enterprises; however, many of these adjustment programmes do not pay sufficient attention to the link between producer services and adjustment in manufacturing and agricultural sectors. The role of producer services is precisely that of assisting enterprises to attain the necessary flexibility to adjust to more competitive and uncertain situations.

58. Structural strategies for strengthening the development and competitiveness of indigenous producer services would thus include specific measures to stimulate both the demand for and the supply of such services. Since this demand is derived from the requirements of other sectors, the situation faced by those other sectors with regard to regulation and competitiveness will determine the vigour of demand for services, particularly from those sectors exposed to international competition. Furthermore, the structural change that is affecting economic activity as a result of pressure to conserve the environment is not merely changing the technological pattern

in such activity but is also expanding the demand for related services such as marketing, environmental management, auditing, technological and risk assessment, environmental monitoring and other auxiliary services such as product testing. 59/ This expanding demand is largely being met by foreign suppliers. Consequently, the great challenge lies mainly in stimulating the supply of services provided by nationals to meet those needs.

59. Experience shows that in order to stimulate the supply of domestic services, Governments have used various instruments. These include direct financial support (e.g. to make good a shortage of venture capital); 60/ fiscal and credit incentives (e.g. exemption from import duties on equipment, tax exemptions on royalties, accelerated depreciation schemes or subsidized loans); 61/ modification of the regulatory system to reduce or remove the boundaries between different services (e.g. integration of telephones, computing services and cable television to provide multimedia services through fibre-optic networks); 62/ and specific measures to avoid "destructive competition" or "market skimming" by foreign suppliers. 63/ Other components of the strategy to promote the supply of such services include incentives for the "externalization" of locked-in knowledge, 64/ and the establishment of service centres or training centres aimed at teaching national staff to render producer services. In some countries these centres are turning into veritable nurseries of new producer services enterprises.

Box 2

Producer Service Centres: An Example

An interesting experiment in effective articulation of supply and demand requirements consists in the producer services centres which have developed in the north-central region of Italy in support of the textile and clothing industry. In many cases these services centres are being developed with the joint support of the local public authorities and the trade associations of service-using enterprises. The existence of such services centres has made it possible to maintain a traditional production structure in those industries (generally based on the family unit) while achieving greater competitiveness for the products they generate.

Source: Flavia Martinelli, "Productive Organization and Service Demand in the Italian Textile and Clothing Districts: A Case Study", in UNCTAD, Services and Development Potential: The Indian Context (UNCTAD/ITP/22), pp. 275-322.

II. External Strategy for Developing Internationally Competitive Services

A. How to penetrate world markets: Improving conditions of access to the international market

60. In seeking to penetrate world markets, developing countries face a set of problems which have to be surmounted in order to increase their share of world service trade. Solutions will require an appropriate strategy of negotiation, in some instances with other Governments in a multilateral, regional or bilateral setting 65/ and in others with transnational corporations. The main obstacles arise in the contexts listed below.

(a) Concentration of markets and transnational corporations

61. The growing importance of transnational corporations commonly results in relatively few firms dominating many markets for services. For example, 41 per cent of the reinsurance market depends on only eight companies originating from developed countries. 66/ In engineering and design services, 70 per cent of the demand is concentrated in the developing countries, but 90 per cent of the supply of such services originates from the developed countries. 67/ Only six developing-country firms are on the list of the 20 leading enterprises in the air transport field. The 10 biggest advertising groups in the world all belong to developed countries, as do the 20 biggest management consulting enterprises, the 15 biggest accounting and auditing firms and the 15 biggest software producers. Of the 20 largest hotel chains in the world, only one belongs to a developing country. A similar concentration is found in audiovisual services, with most of the enterprises that finance and distribute entertainment products located in the United States. 68/ The United States, Japan, Germany, France, Italy, the United Kingdom, Canada and Switzerland were the countries of origin of 63 per cent of the first 1,000 banks and 78 per cent of their total assets (1988). With regard to world earnings from tourism, over 80 per cent are collected by Western Europe and the United States. Furthermore, the business of hotel chains and tour operators is dominated by a few enterprises from developed countries. 69/ While the advertising business is dominated by a few firms in the United States, the United Kingdom and Japan, the business of auditing and bookkeeping is managed by the "Big Six". As to audiovisual services, the United States alone occupies more than 50 per cent of world screen time. The seven largest American companies control 85 per cent of box-office takings and 66 per cent of the market for the sale and rental of videocassettes. These enterprises form the cartel known as the Motion Pictures Association of America. Next in importance after the United States of America are France and Italy, whose share of the world market is 13 per cent of the total. 70/ This high degree of concentration is often a consequence of the enormous volume of capital and the complex networks of interdependent organization needed to maintain technological advantage and to exploit several "products" simultaneously. Thus, for a set of services, for example advertising, auditing and management consulting, firm-customer relations are established on a worldwide scale, making it difficult for enterprises originating from developing countries to gain access to world markets.

62. A decisive factor in ascribing this leading role to the developed countries' services is the role of transnational corporations originating from those countries. In such markets, the structure of competition exhibits characteristics akin to oligopoly, with far-from-transparent trade practices, with a high prevalence of complex intra-firm relationships and high barriers to entry. The United States in particular, with its large and relatively homogeneous home market, is successful in exploiting innovation because the returns can come sooner and are potentially larger. Economies of scale are made possible by a large home market. Firms can profit sooner and on a larger scale from innovative products and practices. This is more difficult in the European Community market, fragmented by languages, customs, tastes and laws, where local variants are costly and slower to develop. In the case of developing countries the problems are even greater. Economies of scale for large profitable firms can become virtually unassailable once a critical mass has been reached internationally. This appears to be the main determinant of TNC dominance, and forms a virtuous circle difficult to emulate for late-comers to the market, and especially for those based in developing countries. For instance, major United States manufacturing or financing services TNCs demand high levels of service at their overseas locations from the same or similar firms that they deal with at home, whether they are operating in sophisticated markets such as the European Community, or in developing countries. With the rapid innovation in service products resulting from new technologies and know-how, it is easier for a large supplier to combine them in-house than for the client to purchase them from a variety of small firms and assemble them.

63. In many instances, developed-country firms benefit from financial support from the Governments of their countries of origin. For example, trade flows in construction services are clearly affected by the presence of a number of distorting factors such as heavy government subsidies to export enterprises, tied aid, external financing packages, and political and other pressures.

(b) Anti-competitive practices

64. The high concentration prevailing in the markets for services opens the possibility of anti-competitive trade practices being pursued by the corporations themselves. These also clog the functioning of the markets and exacerbate the difficulties of new firms, particularly those from developing countries, to enter world markets. This prevents a healthy development of competition and its benefits. It affects in particular the users of such services and keeps potential competitors from sharing in the markets. Similarly, the use of anti-competitive practices by certain transnational corporations can thwart the development objectives of host countries by impeding the correct application of tax and exchange policies and pursuing discriminatory practices with regard to prices.

65. The best-known cases may be found in sea and air transport. Certain restrictive trade practices have been dealt with in the Code of Conduct for Liner Conferences, although structural shortcomings persist to prevent developing countries from gaining a greater share in the carriage of bulk cargo. Similarly a high degree of control is exercised by transnational corporations through the vertical integration of their operations or through the requirement that contracts be drawn up exclusively in f.o.b. terms. 71/

In air transport, abuses of a dominant position are practised by travel agencies and airlines and predatory tariffs are used for eliminating rivals. Many abuses have been detected in connection with the use of computerized reservation systems (CRSs), to the point where the European Community has drawn up regulations for the use of such systems, clarifying the boundary between the requirements of access to information networks and the use of unfair competition practices. Similar actions have been undertaken by the United States; the International Civil Aviation Organization (ICAO) has prepared a Code of Conduct on this issue. 72/

66. Cartel-type arrangements designed to fix premiums and preserve markets are common in the insurance field. Certain transnational corporations which provide services to enterprises restrict the coverage of services rendered to the customers of one of their branches in order to avoid conflicts of interest with the customers of another of their branches in another country. 73/

67. Both the problem of market concentration and the use of restrictive trade practices are dealt with, albeit in a clearly inadequate manner, in the General Agreement on Trade in Services. Experience has shown that such practices can undermine the very credibility of multilateral trade arrangements. Hence there is a need to tackle these problems exhaustively, by creating mechanisms for damage compensation and dispute settlement that will be genuinely effective.

(c) Access to information networks and distribution channels

68. The crucial importance of telecommunication networks and access to distribution channels in the availability of many services has already been emphasized. Of great significance in developing competitive capacity for financial services is the establishment of information networks that make it possible to introduce new financial instruments and facilitate the use of new management technologies and interconnections with firms located abroad. In audiovisual services, for example, access to distribution channels is the key to being able to exhibit the products of other countries on domestic circuits that distribute cinema and television programmes. 74/ The development of services connected with tourism depends heavily on access to information networks and distribution channels assembled by airlines, travel agencies and hotel chains, where segmentation of the markets for tourism operators bars access to such networks and channels for many suppliers of services from developing countries. 75/

69. Ready access to participation in networks is the key to the development of exports in such sectors as banking, some professional services, air transport and computing services. 76/ Access to distribution channels has presented an even more complex case since the distribution chains began internationalizing, creating their own integrated networks which extend from the design of the product or service to the final consumer wherever he may be. Such networks confer very substantial competitive advantages. Furthermore, the difficulties of gaining access to such channels make it impossible to reach markets for audiovisual services, software, professional services, banking, insurance and others. Facilitating access to information networks and distribution channels for service enterprises in developing countries is an indispensable component of any effort to improve those countries' share of

world trade in services. The possibility of developing countries requesting access to networks from foreign suppliers as a condition for granting market access and national treatment commitments is provided for in articles IV and XIX:2 of the General Agreement for Trade in Services. Questions related to access to networks will be examined under item 3 (e) of the Standing Committee's work programme.

(d) Access to markets and restrictions on the international movement of persons

70. Commitments with respect to government regulations of various kinds which impede access to markets of services are being negotiated in the Uruguay Round. They have also been included in many regional trade agreements. In the negotiations with the Round, developing countries have been giving particular attention to obtaining commitments with respect to the movement of natural persons as suppliers of services.

71. As in trade in goods, those services with export potential in the developing countries are ones which are highly labour-intensive. One form of making use of this advantage has been that of exporting services through the temporary movement of service suppliers. External resources received through workers' remittances represent a fairly high proportion of the total exports of many developing countries. 77/ These involve a variety of skill levels including managerial, professional and technical categories. Restrictions on the movement of persons who do not reside abroad (e.g. software consultants, etc.) can also affect developing-country exports of services. For many developing countries, the international rendering of services through the movement of persons is the only possible way to share in international trade. The removal of obstacles affecting the export of services by means of temporary movement of persons from developing countries is essential. 78/

72. In professional services, problems relating to the recognition of professional qualifications can also present barriers to the export of services. 79/ Item 3 (h) of the Standing Committee's programme of work relates to the analysis and identification of possibilities for the developing countries to make better use of this potential. 80/

B. Increasing participation of developing countries in international markets: Elements for a strategy

(a) The framework

73. At the multilateral level, the Uruguay Round negotiations on a General Agreement for Trade in Services contemplates provisions to the effect that foreign service suppliers gaining access to developing countries' markets should accept conditions with respect to transfer of technology, training and access to their information networks and channels of distribution. 81/ In this framework, developing countries have sought to negotiate reductions in the regulatory barriers affecting exports of their services.

74. Services have already been included in various regional integration programmes among developing countries. Existing complementarities and cultural commonalities can enhance trade and competitiveness in services.

Exports to outside the region may be promoted through joint associations. Unified approaches can help to enhance the bargaining power of members; the pooling of resources can ameliorate the conditions for acquiring access to information networks, distribution channels and equipment necessary for infrastructural updating.

(b) Options of strategies

75. Developing countries recognize the need to stimulate their exports of services not only as a means of increasing their foreign-exchange earnings but as a way of stimulating employment, upgrading the skills of their human resources and strengthening the home services sector in general. In turn, through their link with trade in goods, exports of certain goods normally support exports of services and, conversely, the export of certain services helps in exporting more goods.

76. A strategy to increase service exports thus involves efforts to develop competitive service enterprises at the domestic level as well as minimizing barriers to enter into world markets. A competitive services sector may be strengthened by means of strategies directed towards: (a) stimulating services in which some comparative advantages can be deemed to exist; (b) enhancing their competitive strengths through application of specific policy measures, and (c) improving conditions of access to foreign markets through multilateral, regional and bilateral negotiations with Governments and transnational corporations on obstacles that limit export opportunities.

77. These strategies should be able to generate an increase in exports of services in service sectors where developing countries possess or are able to "create" comparative advantages. Comparative advantage in services may derive from factors which are not necessarily related to "natural" elements; in fact, many of them are conditioned by the level and quality of previous development. The quantity and quality of the resources allotted to R & D, the training of human resources, the level and development of technology and industry, the build-up of knowledge relevant to production, the size of the home market, and the nature and extent of regulatory system: all these factors affect the domestic and international competitiveness that many services can attain. This presents a challenge to the developing countries in deciding how to develop competitive services in circumstances where the relative strength of the industrialized countries in such activities is the outcome of their own history.

(i) <u>Stimulating services in which comparative advantages exist or can be created</u>

78. Comparative advantages in services scarcely differ from those in goods. Price, quality and timely reliable delivery are common factors affecting competitiveness in both goods and services. As in the case of goods, countries can exploit their existing inherent comparative advantages (derived from locational specificities or from resource endowments); they can also pursue a competitive position through specific strategies.

79. Developing countries normally enjoy comparative advantages in services deriving from one or more of the following factors: (a) inherent services

comparative advantages arising from geographical, historical or cultural factors (i.e. activities such as tourism, certain transportation services, translation services, educational services, even medical services depend heavily on such elements); (b) the relatively low cost of both skilled and unskilled manpower in developing countries also constitutes a source of inherent competitive advantage and consequently opens up prospects for those services which make intensive use of that factor (e.g. construction services, domestic services, agricultural seasonal labour, hotels, restaurants and many business and professional services which are labour-intensive). 82/ Several countries have formulated specific labour service export policies. 83/ They have included additional measures to raise the skill levels of labour exports, strengthened personnel training, built up information networks and developed new labour service exports 84/ while penetrating new markets. 85/ The identification of particular niches into which specific services can be fitted on competitive terms is also important as a source of information in developing the export of such services as film dubbing and subtitling, the digitalization of data, printing services, certain professional services and so on.

(ii) Developing competitive strengths

80. The share in trade in services of service suppliers is closely linked to their ability to build up competitive strength. Major factors determining competitiveness are: (a) financial capacity, (b) the ability to make effective use of telecommunications and information technologies, (c) accumulated knowledge, skills and reputation, (d) "networking" ability, (e) established relations between suppliers and buyers, (f) presence in major markets, (g) ability to offer a package of services, (h) domestic market size, and (i) appropriate government incentives. 86/

81. Many of these advantages will not turn into exports unless special measures are taken to permit enterprises to: diversify their offer, gain access to foreign markets by establishing their own channels of distribution; 87/ acquire the technologies needed in order to compete effectively; cover risks; and invest and modernize through the purchase of technologically advanced (often expensive) equipment.

82. The creation of competitive advantages can originate in the knowledge build-up in the manufacturing and agricultural sectors or the extractive industries. Such knowledge can be converted into exportable activities to the extent that it is externalized and organized in ways that facilitate penetration into foreign markets through adequate information and distribution systems being created. 88/ Another way of supporting the creation of competitive advantages is the export of packages of services from specified geographical locations either under offshore arrangements or from teleports or free zones. This can allow countries with inadequate telecommunications infrastructures to circumvent this limitation without having to invest in the modernization of the entire national network. Furthermore, many labour services – skilled and unskilled – can be exported via cross-border trade, thus avoiding the restrictions faced by other modes of delivery such as the temporary movement of personnel. The concentration of highly skilled staff, supported by a good telecommunications infrastructure, may attract resources for the development of knowledge-intensive services of the Silicon Valley

type. 89/ Some countries have set about gradually replacing their exports of goods by exports of services, stimulating the development of activities to meet the requirements of highly specific niches in the international market. 90/ Others promote the export of goods that incorporate the greatest content of national services, and develop strategies whereby the export of services is a vehicle for exporting more goods. 91/

83. An important source for the creation of competitive advantages lies in improving access to new technologies. Both traditional services (financial services and transport) and the new computing services are steadily making more intensive use of new technologies. These are, generally speaking, a strong source of competitiveness in many services, although in some cases they require heavy investment in the training of personnel or in special equipment (e.g. for handling containers in transport).

84. Another factor connected with the creation of competitive advantages is bound up with the improvement of human resources. Qualification of the labour force is essential in order to mobilize national talent for application to new and traditional productive activities. 92/ On-the-job training is normally one method which countries use to transfer knowledge from transnational corporations to national personnel. This type of action can be stimulated by means of fiscal incentives or by linking the conditions of access to the national market with the contribution made by transnational corporations towards improving the skill level of domestic human resources. 93/

CONCLUDING REMARKS

85. In conducting a comparative analysis of service sectors in developing countries with the objective of identifying policies to assist developing countries in developing and strengthening their competitive service sectors (mandated under item 3 (a) of the work programme), the Standing Committee will be able to draw heavily from previous work carried out by UNCTAD and synthesized in this note, as well as upon specific studies being carried out under item 3 (b) to 3 (k) of the work programme. In order to organize its work under the present item in a more systematic fashion, the Standing Committee might wish to consider linking closely the future work under the present item to work being carried out under other items in its work programme, as well as identify priority issues from within the work programme.

The Standing Committee may wish to examine the strategies and policies implemented by countries with a view to strengthening the competitiveness of their service sectors, based upon submissions by member States, including both developed and developing countries, and further studies by the secretariat.

Following the analytical aspects contained in items 3 (a) to (k) of the work programme, the Standing Committee may consider examining the strengths and weaknesses of developing countries in specific service sectors, based upon studies by the secretariat and supported by information provided by member States as well as by private sector entities and non-governmental organizations. In this exercise, priority

could be given to sectors deemed to have a major role in the development process, as well as those where developing countries may possess a comparative advantage and export potential.

In linking future work under the present item to other items in its work programme, the Standing Committee may wish to give particular attention to assessing the impacts of progressive liberalization and of service imports in the development of competitive service sectors, and to examining difficulties faced by developing countries which prevent them from increasing their participation in world trade in services, as mandated under item 3 (g).

Notes

1/ See UNCTAD, "Services in the World Economy", UNCTAD/TDR/8 (Offprint) 1989.

2/ H.G. Grubel, "Direct and Embodied Trade in Services", The Fraser Institute, Service project discussion paper 86-1, Vancouver, Canada, 1986.

3/ Technology, Trade Policy and the Uruguay Round, Papers and Proceedings of a round table held in Delphi, Greece, from 22 to 24 April 1989 (UNCTAD/ITP/23), Part II, report of the round table.

4/ T. Elfring, "An International Comparison of Service Sector Employment Growth", United Nations Economic Commission for Europe, Discussion Papers Vol. 2, No. 1, Geneva, 1992.

5/ Services in the World Economy (UNCTAD/TDR/8) (Offprint) op. cit.

6/ G. Russell Pipe, "Telecommunications Services: Considerations for Developing Countries in Uruguay Round negotiations", Trade in Services: Sectoral Issues (UNCTAD/ITP/26), pp. 49-111.

7/ UNCTAD VIII: Analytical Report by the UNCTAD Secretariat to the Conference (TD/358), chapter IV.

8/ Sieh Lee Mei Ling, "Producer Services Development and Trade: Malaysia and ASEAN in the Uruguay Round. July 1991.

9/ Albert Bressand, "Access to Networks and Services Trade: Uruguay Round and beyond", in Trade in Services: Sectoral Issues (UNCTAD/ITP/26), pp. 215-247.

10/ Producer services are rendered in the various phases of production from the upstream services, such as feasibility studies, market research and product design; to the onstream and parallel stages of production, such services as quality control, equipment leasing, accounting and personnel administration; through the post-production stages to downstream services, such as marketing, distribution, transport advertising, after-sales service and others.

11/ UNCTAD/TDR/8 Offprint, Chapter II.

12/ Studies were made for the Andean group, Mexico, Brazil, Chile, Argentina, Dominican Republic, Tunisia, People's Republic of China, Cape Verde, and Malaysia. More than 6,000 firms were covered by the surveys made for these studies.

13/ Sieh Mei Ling, op.cit. and the studies on Tanzania and Cape Verde.

14/ Studies of Mexico, Dominican Republic, Tunisia and China.

15/ Studies are in progress on Benin, Burundi, Cape Verde, Tanzania, and Uganda under the CAPAS project.

16/ UNCTAD, "Producer Services: China's Light Industry" (draft paper, March 1993).

17/ Examples of this situation are described in the studies on free zones in the Dominican Republic and the maquila industry in Mexico.

18/ Yu Wei-Chiang, He Mao-Chun, Zhou Lin, Yang Yulong and Lin Xiaomao, "China's Tertiary Industry: Problems and Prospects" (UNCTAD, draft paper, March 1993).

19/ These features were identified mainly in the studies of producer services in Malaysia, Mexico and Tunisia.

20/ Studies of producer services in Dominican Republic, Mexico and Tunisia prepared under national projects on services.

21/ L.M.S. Rajwar, "Trade in Shipping Services: India, Malaysia and Thailand", in Services in Asia and the Pacific (UNCTAD/IP/51), vol. 2, pp. 177-210.

22/ UNCTAD VIII: Analytical Report by the UNCTAD secretariat to the Conference (TD/358), chapter IV.

23/ Christopher Findlay and Peter Forsyth, "ASEAN Interests in Air Transport Services in the Uruguay Round", in Services in Asia and the Pacific (UNCTAD/ITP/51), vol. 1, pp. 321-362; see also Mexico: A Service Economy (UNCTAD/ITP/58).

24/ According to UNDP, 80 countries are carrying out privatization programmes involving the privatization of some 8,500 public enterprises in the past 12 years, most of them in countries of eastern Europe and the former Soviet Union. It is reported from various sources that the volume of all transactions involved in privatization came to $53 billion in 1992.

25/ Sieh Lee Mei Ling, "Producer Services Development and Trade ...", op. cit.

26/ Sieh Lee Mei Ling, "Professional Business Services in ASEAN and the Uruguay Round Trade Negotiations", in Services in Asia and the Pacific (UNCTAD/ITP/51), vol. 1, pp. 35-76.

27/ Mexico: A Service Economy (UNCTAD/ITP/58).

28/ Un Hoe Park, "Trade in insurance in Korea", in Services in Asia and the Pacific (UNCTAD/ITP/51), vol. 1, pp. 177-211.

29/ This enables them to provide services such as telecommunications, water, power and even transport and banking at rates accessible to users located in distant areas without damage to the enterprises' financial results.

30/ Dorothy Riddle, "Fostering the growth of new service exports from developing countries", in Services in Asia and the Pacific (UNCTAD/ITP/51), vol. 2, pp. 292-340, and Thierry Noyelle, "Computer software ..." op. cit.

31/ There are many examples of lawyers and other professional people in developing countries who are compelled to earn their living driving taxis or performing similar work.

32/ Chow Kit Boey, "International Trade in Tourism in ASEAN Region", in Services in Asia and the Pacific (UNCTAD/ITP/51), vol. 1, pp. 363-395.

33/ Chow Kit Boey, op. cit.

34/ Thierry Noyelle, "Business Services and the Uruguay Round negotiations on trade in services", in Trade in Services: Sectoral Issues (UNCTAD/ITP/26).

35/ Yehia Soubra, "Construction and Engineering Design Services: Issues Relevant to Multilateral Negotiations on Trade in Services", in Trade in Services: Sectoral Issues (UNCTAD/ITP/26), pp. 185-214.

36/ UNCTC, Transnational Corporations in World Development Trends and Prospects (ST/CTC/89).

37/ Paul Chan Tuck Hoong, "Trade in Services in Malaysia: Construction, Engineering and Medical Services", in Services in Asia and the Pacific (UNCTAD/ITP/51), vol. 2, pp. 127-176.

38/ L.M.S. Rajwar, "Trade in Shipping Services: India, Malaysia and Thailand", in Services in Asia and the Pacific (UNCTAD/ITP/51), vol. 2, pp. 177-210.

39/ Malati Tambay Vaidya, "Trade in Media Services: Asia and the Pacific Region" in Services in Asia and the Pacific (UNCTAD/ITP/51), Vol. 1, pp. 269-320.

40/ Thierry Noyelle, op. cit. pp.309-363,

41/ Thierry Noyelle, op. cit.

42/ J.F. Outreville, "Trade in Insurance Services", Trade in Services: Sectoral Issues (UNCTAD/ITP/26) pp.153-184; Un Hoe, op. cit.; and, Mexico: A Services Economy, op. cit.

43/ K. Sauvant and Z. Zimny, "Foreign direct Investment in Services: the neglected dimension in international services negotiations", in Services and Development Potential: the Indian Context (UNCTAD/ITP/22), pp. 71-112.

44/ S. Christopherson and S. Ball, "Media Services: Considerations relevant to multilateral trade negotiations", in Trade in Services: Sectoral Issues (UNCTAD/ITP/26)

45/ Françoise Vellas, "Approche du secteur de tourisme international", (consultant's report), UNCTAD, April 1993.

46/ Paolo Bifani, "Services and Environmental Protection", (draft paper) UNCTAD, May 1993.

47/ Yehia Soubra, "Construction and Engineering Design Services: Issues Relevant to Multilateral Negotiations on Trade in Services", in Trade in Services: Sectoral Issues (UNCTAD/ITP/26), pp. 185-214.

48/ Thierry Noyelle, op. cit. pp. 309-363.

49/ Arturo Borja T., Antonio González Vargas, Lourdes Hernández and Alvaro García Oramas, "Servicios de Software y Computación", México: una economía de servicios (UNCTAD/ITP/58).

50/ Bifani, op. cit.

51/ For example, engineering and construction services in the Republic of Korea, computer programming and software development in India.

52/ Overseas Construction Act of 1975, Republic of Korea.

53/ Paolo Bifani, op. cit.

54/ The developing countries, which represent 70 per cent of the world population and produce 20 per cent of the world GDP, use barely 7 per cent of the world's telephones. There are more telephones in the city of Tokyo than on the whole African continent.

55/ BOT: "Build, operate, transfer".

56/ Robert Devlin, "El proceso de privatización y lel bienestar social", (mimeo, March 1993) ECLAC, Santiago, Chile.

57/ Ibid.

58/ Sieh Lee Mei Ling, "Producer services, development and trade ...", op. cit.

59/ Paolo Bifani, "Services and Environmental Protection", Draft paper, UNCTAD, May 1993.

60/ In Colombia, the Government established the Vallejo plan, which includes a component for the development of service enterprises through soft financing for the purchase of equipment, international promotion and the acquisition of technologies.

61/ The Singapore Economy: New Directions, Report of the Committee, Ministry of Trade and Industry. Singapore, February 1986. The Government of Singapore established a programme aimed at supporting various producer services sectors such as: computer services, quality control services, professional services and hotel management.

62/ "Eyes on the Future", Newsweek, 31 May 1993.

63/ Flavia Martinelli, "Services, Trade and Development", Services in Asia and the Pacific (UNCTAD/ITP/51), vol. 2.

64/ This applies to Tunise Engineering et Construction Industrielle (TECI), established to make use of accumulated knowledge in phosphate and fertilizer mine engineering.

65/ Several economic integration schemes such as EEC, MERCOSUR and the Andean Group as well as free trade agreements such as NAFTA and ASEAN include arrangements for liberalizing trade in services.

66/ ReActions, March 1988.

67/ Engineering News Record, vol. 223, No. 6, 10 August 1989.

68/ UNCTAD VIII: Analytical Report, op. cit.

69/ Francisca Carner, "América Latina y el Caribe: El Comercio de Servicios en Turismo y las Negociaciones de la Ronda Uruguay" (mimeo).

70/ Francisca Carner, "El Comercio de Servicios Audiovisuales de América Latina" (mimeo).

71/ Peter Faust, "Shipping Services", in Trade in Services: Sectoral Issues (UNCTAD/ITP/26), pp. 113-151.

72/ Philippe Brusick, Murray Gibbs and Mina Mashayekhi, "Anti-Competitive Practices in the Service Sector", in Uruguay Round: Further papers on Selected Issues (UNCTAD/ITP/42), pp. 122-156.

73/ Thierry Noyelle, op. cit., pp. 309-363.

74/ Susan Christopherson and Stephen Ball, "Media Services: Considerations relevant to Multilateral Trade Negotiations", in Trade in Services: Sectoral Issues (UNCTAD/ITP/26), pp. 249-308.

75/ México: Una Economia de Servicios (UNCTAD/ITP/58).

76/ F. Vellas, op. cit.

77/ See TD/B/CN.4/24.

78/ Pang Eng Fong, "Labour Mobility, Trade in Services and the Uruguay Round: The Perspective of ASEAN Countries", in Services in Asia and the Pacific (UNCTAD/ITP/51), vol. 1, pp. 141-175.

79/ Paul Chan Tuck Hoong, op. cit.

80/ See TD/B/CN.4/27.

81/ UNCTAD VIII: Analytical Report, op. cit.

82/ Examples of good use being made of these advantages are found in some Caribbean countries, where in addition to taking advantage of the low cost of manpower, they also derive advantage from their language – English – and geographical proximity to markets of special interest.

83/ India, Pakistan and the Philippines have developed such policies to stimulate contract and individual labour exports by enacting legislation which covers recruitment criteria, length of employment, benefits, rewards and penalties, the issuance of permits and other necessary rules.

84/ Data processors in Caribbean countries are paid one tenth to one fifth of the salary of a similar worker in the United States of America. Cost accounting software systems for Lufthansa are designed by an Indian firm.

85/ Zhang Nigxiang, Chu Changyou, and Xu Dansong, "Labour Service Exports from China: Present Situation and Future Potential" (mimeo) Research Institute for International Economic Cooperation, Ministry of Foreign Economic Relations and Trade, Beijing, November 1992.

86/ M. Gibbs and M. Hayashi, "Sectoral issues and the multilateral framework for trade in services: an overview" in Trade in Services: Sectoral Issues, UNCTAD/ITP/26, pp. 1-48.

87/ For instance, China's labour services are exported by means of their international economic and technical cooperation companies (IE&TCC's).

88/ The decentralization of Petróleos de Venezuela stimulated the export of end-services for the engineering, drilling and maintenance of oil wells as well as services for the construction of road infrastructure. Codelco, a Chilean mining enterprise, gave rise to enterprises specializing in advanced engineering for copper, which is also being exported.

89/ Pyramid Valley in Egypt functions on this basis and aims to become a great regional supplier of computer services. The scheme is being developed jointly with the participation of transnational corporations.

90/ Emphasis on professional services such as: organization of trade fairs and exhibitions, consultancies and management services, design and know-how packages, furniture, electronics, turnkey projects for countries improving their technological bases. The Singapore Economy, op. cit.

91/ The export of engineering services normally supports exports of capital goods as in the case of the firm of Mendes Junior of Brazil under a telephone project at Lagos.

92/ The Singapore Economy, op. cit.

93/ It has been found that people retain about 10 per cent of what they see, some 20 per cent of what they hear, 50 per cent of what they see and hear and 80 per cent of what they see, hear and do. Newsweek, 31 May 1993.

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TRADE AND DEVELOPMENT BOARD
Standing Committee on Developing Services Sectors:
Fostering Competitive Services Sectors
in Developing Countries
Second session
Item 5 of the provisional agenda

PROGRAMME OF WORK OF THE STANDING COMMITTEE ON DEVELOPING SERVICES SECTORS: FOSTERING COMPETITIVE SERVICES SECTORS IN DEVELOPING COUNTRIES

Item 3 (h)

TEMPORARY MOVEMENT OF PERSONS AS SERVICE PROVIDERS

Note by the UNCTAD secretariat

GE.93-53190

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INTRODUCTION

1. Over the past two decades many developing countries have been able to generate an export capacity and compete at the international level in trade in goods on account of their lower wage costs combined with acquisition of increasingly higher levels of technology, an accomplishment which has been facilitated through the GATT system of unconditional most-favoured-nation treatment combined with the implementation of the Generalized System of Preferences. The question arises as to whether they can effectively capitalize on their comparative advantage to a similar extent in trade in services. While most developing countries possess a comparative advantage in the supply of unskilled and certain kinds of skilled labour, to the extent that trade in services involves the physical cross-border movement of persons, they find it difficult to translate this into exports, because of the restrictions imposed by immigration laws on the temporary movement of personnel. The growth prospects of developing-country firms have thus been affected in a number of services sectors, where trade is highly dependent upon cross-border mobility of labour.

2. This report has been prepared in accordance with the terms of reference of the Standing Committee on Developing Services Sectors: Fostering Competitive Services Sectors in Developing Countries and with reference to the work programme which was agreed upon at the meeting held in October 1992, in particular item 3 (h) of the work programme, that is, to identify and analyse the possibilities for developing-country service exports through temporary movement of persons as services suppliers, be it as sole service providers or as personnel; and analyse the measures affecting their ability to export such services due to barriers to the temporary movement of persons across national frontiers to supply services.

3. In order to initiate the work of the Standing Committee regarding this item, this report intends to describe the "problematique" of trade in services affected through the temporary movement of natural persons. It addresses such aspects as (a) the importance of the temporary movement of persons to trade in services of developing countries, (b) the sectors where temporary movement of persons is important for developing-country exports, (c) the general characteristics of immigration laws pertaining to the temporary movement of service suppliers, including the identification of sectors and occupations which tend to benefit from more favourable treatment, and (d) international, regional and subregional, and bilateral agreements on movement of persons.

4. The terms "international movement of persons as service suppliers" is used in the context that has emerged in the Uruguay Round negotiations, i.e., it refers to the temporary relocation of services providers and excludes permanent migration. Such movement of persons constitutes a "mode of delivery" or "mode of supply" for other services. The draft General Agreement on Trade in Services (GATS) defines "trade in services" to include all four "modes of delivery", namely cross-border movement, movement of consumer, commercial presence, and movement of natural persons as suppliers of services. The Annex on Movement of Natural Persons clarifies that the movement of natural persons as a mode of delivery involves both service providers of a party and natural persons of a party who are employed by a service provider of a party, while excluding individual job seekers and candidates for permanent residence or citizenship. It recognizes that the conditions of access for the temporary entry of persons supplying services is a legitimate subject for trade negotiations, and many participants have offered to "bind" such access by including commitments in this area in the Schedules of Commitments, as an integral part of the GATS.

I. TEMPORARY MOVEMENT OF PERSONS

A. Labour Exports

5. The movement of services suppliers falls into two basic categories which receive different treatment in the various immigration laws, as well as in the statistics on trade in services found in the IMF balance-of-payments statistics.

6. The first category involves the traditional type of labour exports, where persons reside, work and are paid abroad, but remit earnings which can be measured in the balance-of-payments statistics. Other than services incorporated in goods, developing countries have traditionally capitalised on their labour-cost advantage in the provision of services through the physical movement of persons across national frontiers. The most prevalent mechanism has been through "guest worker" type programmes controlled by the importing country and geared to its labour market situation. In this scenario, the labour-short importing country establishes legislation typically involving bilateral agreements, whereby "guest workers" from a labour-rich country can be hired by employers of the importing country. The two sets of programmes that have generated the largest waves of temporary guest workers have been those introduced by the Western European countries during the 1950s, 1960s, and 1970s and, in the 1970s and 1980s, the programmes of the Gulf Cooperation Council (GCC) countries and several Arab oil-exporting countries. The peak occurred in the 1970s, when guest workers in Western Europe amounted to several million, mainly from Mediterranean countries. One estimate placed the number of non-nationals working and living in the GCC countries, for the most part on a "guest worker" basis, at over seven million in 1988[1]. This figure includes many from other Arab countries, as well as from South and South-East Asia.

7. The second category of services suppliers comprises the movement of persons across national frontiers for shorter periods to carry out specific tasks. The tasks carried out by such persons abroad are usually components of an overall "service package", and payment is generally made to a firm in a foreign country but not necessarily the one from which the persons originate. Such "exports" are not identified as labour payments in the balance-of-payments statistics. The persons moving abroad may provide a wide range of services at different levels of skills, such as computer software consultants (or consultants in various fields), technicians for the maintenance of exported goods, professionals such as doctors, engineers, architects, etc. Many of these particularly managerial personnel move within the framework of transnational corporations to support the activities of the corporations in various countries. As indicated below, some of these persons enter foreign countries under business visitor-type provisions of immigration laws, although many simply declare themselves as "tourists".

8. In the conduct of trade in services, both categories of persons can be involved in the same "service export". For example, some labour-exporting countries have devised a parallel model to the "guest worker approach" organized by firms in the importing country, in the form of the structured export of labour services, in which exporting firms identify export opportunities and devise strategies to penetrate markets by bringing the management, know-how and personnel they need to provide their service in the importing country. In this scenario, the personnel who relocate to the importing country remain employed by a firm from the exporting country, but may also include self-employed service providers based in the exporting country or who enter into contractual employment relationships with firms in the exporting, importing or third country to carry out specific assignments.

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[1] J.S. Birk and C.A. Sinclair, "Manpower and population evaluation in the GCC and the Libyan Arab Jamahariya", Working Paper No. 42, World Employment Programme Research (Geneva, International Labour Office, October 1989).

9. While such organized exports of labour-intensive services have existed for many years (for example, ship owners have long rented the services of their vessels and crews to firms other than those of their country of origin), such exports have begun to constitute significant trade flows only recently. The construction boom in the Gulf countries during the 1970s and 1980s gave a formidable impetus to the export of construction services, not only by firms which brought the project management know-how or engineering expertise but also the construction teams (sometimes recruited from third countries) necessary to build the projects. Construction firms from the Republic of Korea, Egypt, Morocco, Lebanon, Yugoslavia, India, China and other developing countries entered these new exports markets during those years.[2] Firms from India and the Republic of Korea now export engineering and management consulting services throughout Asia and to developed countries, while Mexican firms export engineering and construction services to all parts of Latin America and now even to some areas of the United States.[3] More recently (during the 1980s) a number of countries have adopted similar approaches for exploiting labour-intensive services incorporating new technologies which reduce the need for the movement of persons. For example, India, the Republic of Korea and the Philippines have been successful in penetrating world markets for computer software and data-processing services, including those of advanced countries such as the United States or Japan.[4]

10. Much anecdotal evidence exists to indicate that considerable growth is taking place in "offshore back-office services" (i.e., data entry, data processing, software, etc.) being conducted in developing countries with input and output being transmitted electronically to and from developed-country markets. This is part of a strategy of developed-country firms (e.g., airlines) to carry out their most labour-intensive supporting service activities in low-wage countries, i.e., to benefit from low-cost labour without the problem of work permits and other difficulties associated with the international movement of persons. On the other hand, the few studies that have addressed this phenomenon indicate that while developing country firms are benefiting from this type of trade, their prospects are seriously reduced if movement of persons is restricted, as it is in many sectors, which could be termed "labour-intensive high tech", e.g., customized software, machinery maintenance, etc. It is necessary for the technical staff to visit the premises of the client.[5] It is

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[2] See for example, A. B. Zalhan, Acquiring Technological Capacity: A Study of Arab Consulting and Contracting Firms (London, Macmillan, 1991).

[3] ICA, one of Mexico's largest construction firms, has built projects thorughout Latin America (including subways in several countries) and accumulated well over $100 million worth of contracts in Florida after barely two years of operating in that state (ICA, Annual Report, 1990).

[4] In 1988-1989, India's computer software exports were estimated at well over US$ 100 million. Tata Consultancy Services, India's second largest software producer and the country's largest software exporter, employed over 500 software engineers and programmers overseas, primarily in the United States, and another 200 individuals building software in one of India's booming export processing zones. In 1988, over 800 Filipino software professionals were employed overseas as temporary workers. In addition, the country's software industry was steadily building an export base, primarily in the data-entry and software-conversion business, with its main clients in the United States, Japan, Australia and Western Europe. (Thierry Noyelle, "Computer software and computer services in five Asian countries", in UNCTAD, *Services in Asia and the Pacific: Selected Papers*, vol. One (UNCTAD/ITP/51).

[5] See Saurabh Srivastava, "Computer Software and Data Processing: Export Potential" in Services and Development Potential, the Indian Context (UNCTAD/ITP/22) and Thierry Noyelle, "Computer software and computer services in five Asian countries", in Services in Asia and the Pacific: Selected Papers, vol. One (UNCTAD/ITP/51).

also necessary to be present in the most sophisticated markets to become competitive at the "upper-end" of the market. Otherwise developing country firms will be relegated to sub-contractors, competing for a limited share of the market.

B. Economic Impact of the Movement of Labour

11. Many developing countries rely heavily on the cross-border movement of persons. For some developing countries, in particular for many of the least-developed ones, the earnings of their nationals abroad constitute their only exports of services, and in a few cases, their sole source of foreign exchange. For these countries, remittances, defined as the portion of migrant workers' earnings sent back from the country of employment to the country of origin, constitute significant proportions of GDP, exports, and imports, providing an attractive means of foreign exchange earnings and economic development opportunity.[6] The International Monetary Fund's (IMF's) Balance of Payments Statistics Yearbook, which compiles data from individual country sources, estimates that nominal global remittances for developing countries amounted in 1991 to US$93 billion compared to US$43.3 billion in 1980. The global volume of remittances "reflects the fact that international migration has become central to international trade in services".[7] In 1991, remittances were roughly 10.7 percent of what has become the very substantial total value of world trade in services for that year - US$ 862.1 billion (as calculated by the IMF).

12. Estimates of official remittances have serious inadequacies. Data are not reported for all countries. Countries record and report remittances in different categories of the balance-of-payments statistics, and reporting requirements or conventions differ among countries. Three categories in the balance-of-payments detailed current account statistics are of relevance: "workers remittances", "migrant transfers", and "labour income". "Worker remittances" are the value of transfers from workers abroad for more than one year; "migrant transfers" include the flow of goods and financial assets associated with migration; and "labour income" comes from migrants working abroad for less than one year.

13. An important consideration relating to the economic impact of the movement of labour across borders is that, although many countries keep records of the occupations of their nationals working abroad, statistics are difficult to compare at the international level. It is also important to recognize that these "trade flows" are calculated from payments made by nationals present (or resident) in foreign countries; they do not indicate the full importance of the movement of persons as a mode of supply of services in that many services provided by persons on a temporary basis in a foreign country are reflected in payments to a firm for services rendered, when this firm may be present in the market country. In many cases, the movement of persons is only one component of the final service package.

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[6] See UNCTAD VIII: Analytical report by the UNCTAD secretariat to the Conference (TD/358).

[7] Russel, Sharon Stanton, "Remittances from International Migration: A Review in Perspective." World Development, 14 (6): 677-696.

Table 1

Labour Services Net Earnings and Merchandise Exports for Labour Services Exporting Countries, 1991

COUNTRY	Labour-service Net earnings	Merchandise Exports	Labour earnings as per cent of merchandise exports
LATIN AMERICA			
Argentina	29	11972	0.2
Bolivia	23	760	3.0
Brazil	813	31408	2.5
Chile	40	8929	0.4
Colombia	1717	7572	22.6
El Salvador	470	588	0.8
Mexico	2055	27121	7.5
AFRICA			
Algeria	332	12964	2.5
Egypt	4054	3856	105.1
Morocco	2012	4277	47.0
Tunisia	578	4021	14.3
Benin	71	297	23.9
Ghana (1990)	202	891	22.6
Mali	70	354	19.7
Senegal	28	903	3.1
ASIA			
Bangladesh	236	1689	13.9
India (1990)	2209	13510	16.4
Pakistan	1797	6352	28.2
Sri Lanka	395	1990	19.8
Philippines	473	8840	5.3
Turkey	2854	13672	20.8
China (1990)	274	51519	0.5
Jordan	1124	1129	99.5

Source: International Monetary Fund, Balance-of-Payments Statistics Yearbook, 1991 and 1992, and data from the Chinese Ministry of Foreign Economic Relations and Trade.

Note: Labour service balance includes labour income, migrant transfers and workers' remittances.

1. Africa

14. The last two decades have witnessed a growing movement of persons within and from Africa. Consequently, income inflows resulting from the activities of Africans working abroad have become significant when compared to both the exports of services and the GDP of a large number of African countries (e.g., Egypt, Morocco, Tunisia, Burkina Faso, Central African Republic, Congo, Gabon, Senegal, Tanzania, Botswana, Mozambique, Sudan, Cape Verde, and Lesotho).[8]

15. In terms of country of origin, African organized movement of personnel originates principally from the countries of Southern Africa - especially Botswana, Lesotho, Mozambique, and Swaziland - and from Northern Africa, especially Egypt. Egypt's experience with large-scale export of labour services

[8] See UNCTAD VIII: Analytical Report, op. cit.

goes back to the early 1970s, although there is an Egyptian tradition of overseas temporary or permanent migration going back to the 1920s, if not earlier. In 1987, the Central Agency for Public Mobilization and Statistics (CAPMAS) counted nearly 2 million Egyptians overseas, of which 92 per cent were employed, the residual including nonworking dependents.[9] There are organized flows originating from other parts of Africa, especially West Africa, but their importance is much less when compared to the role of individual migration movement in that region.

16. In terms of country destinations, the main recipients of African organized movement of persons are the Republic of South Africa, the Gulf Cooperation Council countries, other Middle Eastern countries and the Libyan Arab Jamahiriya. Other African countries are recipents on a smaller scale.

2. Asia and the Pacific

17. The Asia and Pacific region is dominated by net-exporting countries. Currently, there are eight major labour-exporting countries in Asia: India, Pakistan, Bangladesh, Sri Lanka, Indonesia, Republic of Korea, the Philippines, and Thailand. The number of contract migrant workers sent by India, Pakistan, South Korea and the Philippines exceeded 100,000 in 1979; in 1982, the number from the Philippines was 434,200, exceeding that for the other seven countries.

18. Over the past ten years, Asian workers have dominated the Middle-East market, which remains the main destination for Asian workers, although there are alternative destinations in developed countries. Intraregional labour movement takes place between countries experiencing differential rates of economic growth, per capita incomes and employment opportunities. In the 1980s, workers from some labour-rich Asian countries were able to work in a number of other Asian countries and territories that had become labour importers, such as Japan, Hong Kong, Macao, Singapore, Taiwan province of China, Malaysia, and the Republic of Korea.[10]

19. ASEAN countries include both net labour importers (Brunei and Singapore) and net labour exporters (Malaysia, Indonesia, the Philippines, and Thailand). Most temporary migrants from ASEAN have been employed in the Middle East. There has also been some increase in the export of temporary labour to developed countries, particularly Japan.[11]

20. Malaysia is both an exporter and an importer of labour-intensive services, issuing employment passes to approved foreign managerial, professional, supervisory, technical and skilled workers. The Philippines have long been a major supplier of labour to foreign countries. In 1981, about a quarter of a million Filipino contract workers went abroad, mostly in the Middle East. Remittances by Filipino workers abroad in 1980 were around US$ 815 million, equivalent to 14 per cent of commodity exports. Rapid industrialization since the late 1960s has made Singapore increasingly dependent on foreign labour, both skilled and unskilled. In 1988, there were an estimated 157,000 foreigners in Singapore's workforce. Thailand, historically not a major exporter of labour-intensive services, began encouraging labour exports in the 1970s. It subsequently developed into a large exporter of labour to the Gulf Countries,

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[9] See CAPMAS, 1987 Survey of Egyptians Living Overseas (Cairo: CAPMAS, 1987).

[10] See Zhang Ningxiang, Chu Changyou, and Xu Dansong, "Labor Service Exports from China: Present Situation and Future Potential" (1992), and Reginald T. Appleyard, "International Migration: Challenge for the Nineties", International Organization for Migration, Geneva, 1991.

[11] See Pang Eng Fong and Linda Low, "Labour mobility, trade in services and the Uruguay Round: the perspective of ASEAN countries", in UNCTAD, Services in Asia and the Pacific, vol. One (UNCTAD/ITP/51).

from less than 4,000 migrants workers in 1975 to over 40,000 in the early 1980s. Remittances have increased from about US$55 million a year in the early 1980s to around US$1 billion in the late 1980s.[12]

21. Pakistan and India provided 27 per cent and Bangladesh and Sri Lanka 22 per cent of the estimated 795,000 workers in the Middle East in 1989. In that context, the economic impact of such exports of labour services has been considerable, especially through remittances, notably in Pakistan and Bangladesh (representing 35 per cent and 47 percent respectively of their total export earnings in 1988), while India and Sri Lanka also registered substantial external revenues.[13]

22. Some Pacific Island countries export skilled and unskilled manpower to neighbouring countries as well as providing crews for shipping lines. Fiji, Tonga, Western Samoa, Kiribati, Tuvalu and Vanuatu have sizable numbers of their nationals working abroad and remitting foreign exchange earnings. Earnings from overseas employment are substantial for these countries. It is estimated that remittances from overseas employment in Tonga is about three times the value of the country's merchandise exports, while in Western Samoa, it is about twice the merchandise export figure. For Kiribati and Vanuatu, the proceeds from overseas employment amount to about 40 per cent and 20 per cent of their merchandise exports, respectively.[14]

3. China

23. Compared with other labour-exporting developing countries, especially the Asian countries mentioned above, China exports fewer personnel, earns less labour income, and holds a smaller share of the international labour service market.[15] China's income from labour exports is also lower than that for other Asian labour-exporting countries, both in amount and as a share of merchandise export income. China, with a population of over 1 billion, currently earns only the equivalent of 0.5 per cent of its merchandise exports income from labour exports. Nevertheless, China's provision of labour-intensive services has gradually increased as a result of the country's policy of opening up to the outside world.

24. In 1979, four corporations were established to engage specifically in labour service exports. Chinese labour services are exported through China's international economic and technical cooperation companies, according to the contracts or agreements signed with foreign governments, enterprises, and individuals. There are 123 international companies approved by the State Council or the Ministry of Foreign Economic Relations and Trade. These companies are legal entities established to engage in international construction and labour service projects.

25. The development of Chinese labour service exports can be divided into three major phases: (a) During the first phase, from 1979 to 1984, the number of personnel working abroad increased from 2,000 to 50,000. The amount of labour service contracts signed by all companies increased from US$17.6 million in 1979 to US$199 million in 1984; (b) During the second phase, from 1985 to 1990, Chinese labour service exports increased very slowly. In 1990, about 58,000 workers went abroad and contracts reached US$478 million; (c) During the third phase, which began in 1991, Chinese overseas workers numbered over 89,000, and labour service contracts increased to US$1 billion. Hong Kong, Macao, Japan,

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[12] Ibid.

[13] Appleyard, op. cit.

[14] See Yee Che Fong, "Trade in Services in the Pacific Island Countries" in UNCATD, Services in Asia and the Pacific, vol. One (UNCTAD/ITP/51).

[15] This section is based on information contained in Zhang Ningxiang, Chu Changyou, and Xu Dansong, op. cit.

Singapore, Russia, and the United States became the major markets for Chinese labour service exports, and in 1991 accounted for 61 per cent of total personnel working abroad. By the end of 1991, over 24,000 construction and labour service contracts had been signed with 157 countries and regions in Asia, Africa, Europe, North America, Latin America, and Oceania. Of the total contract value of US$19 billion signed up to that point, US$12 billion worth of projects had been completed.

26. Asia is the primary market for Chinese labour service exports, and accounted for 71 per cent of the total personnel working abroad from 1982 to 1991. Africa is the second largest market for Chinese labour service exports, accounting for 15 per cent of all such workers (Libyan Arab Jamahiriya, Algeria, Egypt, and Botswana being the major markets). Over two-thirds of Chinese personnel sent to Africa worked on construction projects. Europe is the third largest market for Chinese labour service exports, with 5.5 per cent of all workers and contracts accounting for about 12.8 per cent of total contracts. North America, the fourth largest, was responsible for 4.2 per cent of the total. United States labour service contracts in 1991 were 9.8 per cent of all contracts. Latin America and Oceania represented much smaller markets.

4. Latin America and the Caribbean

27. Estimates are that some ten million persons from Latin America and the Caribbean reside outside the region. Nevertheless, the share of labour services exports in the total exports from Latin American countries has been lower than for African and Asian countries, ranging from 1 to 7 per cent in 1988, while in the Caribbean countries it has been higher.

28. The dominant trends in Latin America and the Caribbean are: (1) a significant emigration of professionals from Latin America to the developed countries, and particularly to the United States. Between 1961 and 1983, some 700,000 professionals and other highly-qualified personnel emigrated to the United States, Canada and the United Kingdom;[16] (2) the intraregional movement taking place in Latin America among countries experiencing different rates of economic growth, per-capita income and employment opportunities. For example, Argentina, Venezuela and Brazil have been the main receivers of migrants from nearby countries. Such movement of persons within Latin American region generally involves persons with lower skill levels, mainly taking place between neighbouring countries, e.g., from Colombia to Venezuela; from Bolivia, Paraguay and Chile to Argentina.[17]

5. The Middle East

29. In the Middle East, external labour income has been very significant for many countries, exceeding the revenues from the total export of merchandise. Millions of contract workers moved to petroleum-producing countries after 1973. In 1975, 35 per cent of the migrant labour in the Gulf Cooperation Council (GCC) States (Saudi Arabia, Oman, Kuwait, Bahrain, UAE and Qatar) were employed in construction services and 29 per cent in other service sectors.

30. The importance of Asia as a source of labour increased after 1975, when an estimated 360,000 workers represented 20 per cent of the region's non-national workforce. By 1985, there were about 3.5 million. In 1975, India and Pakistan accounted for 95 per cent of Asian workers in the Middle East; by 1989 their share was probably less than 25 per cent, South East and East Asia having become

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[16] Norberto Fernandez Lamarra, "Human Resources, Development and Migration of Professionals in Latin America", paper delivered at the tenth IOM seminar on migration, 15-17 September 1992, Geneva.

[17] Appleyard, op. cit.

the main region of supply.[18] The composition of foreign workers in the Gulf areas may have substantially altered after the 1991-1992 Gulf war.

C. Services Provided by "Natural Persons"

31. Data available from the few countries which keep track of the occupations of people working abroad suggest that the competitive advantage of developing countries in trade in labour-intensive services is also the result of the growing capacity of a number of them to provide skilled and highly-skilled labour to export markets. This information identifies what might be considered as the "revealed comparative advantage" in certain labour-intensive services.

32. Among African countries, Egypt maintains a competitive advantage in its ability to provide skilled labour to labour-importing countries. The large majority of Egyptians working overseas tend to be employed either in the managerial, professional or technical category, as production or agricultural workers.[19] The educational and occupational composition of the Egyptian migrant worker was generally considered higher than the national average.

Table 2

Occupational Distribution of Egyptians Living Overseas

Occupation	Percentage Distribution
Managerial, Professional, Technical	26.5
Administrators, Directors	0.5
Clerical	7.1
Sales	3.1
Service workers	3.2
Agricultural workers	30.2
Unskilled and Skilled Production Workers and Transport Operators	27.3
Other	2.0
Total	100.0

Source: Central Agency of Public Mobilization and Statistics, Survey of Egyptian Migration (Cairo, CAPMAS, 1987).

33. Estimates are also available for ASEAN countries. About a third of the Filipinos employed abroad in the late 1980s were production workers, another quarter were engaged in professional, technical and related work, with roughly the same proportion working in service occupations, mostly as domestics. Most Indonesian migrant workers are currently found in domestic services, shipping and agriculture. Malaysia is a major exporter of skilled and unskilled labour, especially to Singapore.

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[18] Ibid.

[19] CAPMAS, op. cit.

Table 3

Deployed Indonesian Migrant Workers by Occupation, 1983-89

Occupation	1983	1984	1985	1986	1987	1988	1989
Agriculture	2867	3133	3592	19229	5671	2135	36627
Mining	-	-	2	-	-	4	6
Industry	-	-	3	-	2	2	7
Electricity	-	361	195	-	2	36	594
Construction	312	1313	1396	342	154	216	3733
Tourism and travel	326	602	137	475	49	78	1667
Construction services	318	514	844	470	62	307	2515
Domestic services	12630	21638	42224	36808	43108	50001	206409
Other	-	-	-	1	-	-	1
Total	28957	37857	65544	65544	59362	59362	312414

Source: Department of Manpower, Jakarta, Republic of Indonesia

Table 4

Occupational Distribution of Filipino Migrant Workers, 1975-1987

Occupation	1975	1977	1979	1981	1983	1985	1987
Prof/Tech	4670	2650	9584	12347	39814	57617	112236
Entertainment	1925	2057	8380	14333	13117	18342	37888
Manag./Administr.	71	210	1441	1804	1870	1202	1675
Clerical	225	944	2896	2585	14189	15141	15929
Sales	53	30	265	446	2259	2780	4268
Service	2747	4576	14089	33109	58151	91381	106654
Agriculture	118	123	186	1322	1641	1217	2690
Prod	2602	26086	55678	144970	249222	150074	144541
Total land	12501	36676	92519	210936	380263	337754	425881
Total sea	23534	33699	44818	55307	53944	51446	70973
Total	36035	70375	137337	266243	434207	389200	496854
Deployed Filipino Contract workers:							
Total land						320494	382229
Total sea						52290	67042
Total						372784	449271

Source: Philippines Overseas Employment Administration

34. Studies have shown a potential for increased services exports from ASEAN countries through the temporary movement of persons.[20] The four larger ASEAN countries have demonstrated a competitive edge in the export of construction services requiring large numbers of unskilled workers. Singapore has acquired a capacity to export construction and design services as well as telecommunications that require skilled labour as a mode of delivery. Transportation is another area in which many ASEAN countries already have a competitive edge, particularly in air-transport services. There is also

[20] Pang Eng Fong and Linda Low, op. cit. This is based on estimates by the authors of the potential for the export of skilled and unskilled labour from ASEAN countries to developed countries in the 1990s in six sectors included in the Group of Negotiations on Services in the context of the Uruguay Round negotiations.

telecommunications that require skilled labour as a mode of delivery. Transportation is another area in which many ASEAN countries already have a competitive edge, particularly in air-transport services. There is also potential for ASEAN exports of tourism services that require labour mobility as a mode of delivery. Three countries - Malaysia, the Philippines and Singapore - have the skilled manpower to deliver financial services in developed countries. In professional services, a sector where the movement of persons in many instances is the only mode of delivery, there are good prospects for ASEAN exports to developed countries.

35. For some Latin American countries, e.g. Argentina, Brazil and Venezuela, a large proportion - up to 25-50 per cent - of nationals working abroad are in professional categories such as nurses, midwives, doctors, dentists, lawyers, artists, mathematicians and statisticians.[21]

36. Although the majority of Chinese overseas workers are in relatively low-skilled jobs, they also include professional technicians such as computer software technicians and medical personnel. From 1982 to 1991, over 40 per cent of total labour exports contracts concerned construction projects, while personnel working overseas on labour service projects accounted for 58 per cent of all contracts. Among the personnel working on overseas construction projects are engineering designers, construction workers, projects managers, and testing and training technicians; labour service cooperation projects involve cooks, sailors, agricultural workers, nurses, metal sheet-shaping workers and senior special technicians, such as managers, computer software technicians, senior seamen, and doctors.[22]

II. REGIMES FOR THE TEMPORARY MOVEMENT OF PERSONS

37. The temporary movement of persons into developed countries has reached important levels. Annual flows of temporary foreign personnel (business visitors as well as temporary immigrants for work) into the economies of several developed countries in the late 1980s are illustrative of this phenomenon. The coverage of these data varies owing to the particular features of each country's statistical apparatus. Some countries keep detailed statistics, and others do not. For example, Canada does not keep an official count of visitors (either short-term business visitors or visitors for pleasure).[23]

38. Estimates of the number of business visitors (individuals who enter a country for the purpose of conducting business, typically for a short period of time) entering the three countries that keep precise records of this type of entry (United Kingdom, United States and, to a lesser extent, Australia) suggest that annual inflows are quite high: over 2.5 million from overseas (i.e., excluding Canada and Mexico) into the United States in 1989; 1.3 million (excluding the EC) into the United Kingdom in 1990; and 2 million into Australia in 1987-1988. These numbers probably underestimate the true magnitude of business visits since many individuals simply enter as tourists (on pleasure trips) without mentioning the real purpose of their visit.[24]

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[21] Norberto Fernandez Lamarra, op. cit.

[22] Zhang Ningxiang, Chu Changyou, and Xu Dansong, op. cit.

[23] See, SOPEMI, Trends in International Migration. Continuous Reporting System on Migration (Paris, OECD, 1992).

[24] See Thierry Noyelle, Katlen Blöcke, Devaki Chandra, and Beth Redfield, "Trade in labor services and temporary movement of personnel", a report to UNCTAD, 1991.

39. Estimates of the numbers of foreign persons who are allowed to reside and work temporarily in developed countries also suggests that this form of movement is quite established. Excluding those persons allowed to work and to reside temporarily because of their employment by the foreign government or an international organization, there were 44,000 temporary immigrants for an expected stay of longer than one year in Australia in 1987-1988, approximately 226,000 temporary immigrants in Canada in 1990, 334,000 temporary immigrants in Switzerland in 1989, 149,000 temporary immigrants in the United Kingdom in 1990, and 413,000 in the United States in 1989.[25]

A. General Characteristics of Regimes for "Non-immigrants"

40. The temporary entry of natural persons supplying services is restricted by two main classes of instruments: (1) visas, residency permits and work permits that regulate entry and temporary stay, and (2) licencing and certification regulations governing the right to practice. The following paragraphs examine the national regimes and international agreements dealing with the former category; the latter issue is addressed in a separate document.[26]

41. Visas and residence permits are the most important instruments used to regulate, control and monitor entry into a country for temporary or long-term immigration purposes. Laws, regulations and administrative practices limiting temporary entry range from the very detailed and highly transparent to the very obscure and highly discretionary. Still, when dealing with temporary stays for work, most countries distinguish between two sets of applicants:

- short-term visitors, often called "business visitors", who may request permission to enter a country for a very short duration (typically several days or several weeks; sometimes a few months) while remaining nongainfully employed in the host country (in other words, while not on the payroll of an organization of the host country);

- temporary working residents, who may request entry for up to several months or several years in a country for purposes of being gainfully employed in that country (in other words, while being on the payroll of an organization of the host country). Temporary working residents typically include intra-company transferees, corporate trainees, individual service contractors (a self-employed consultant, an artist, an athlete, or anyone hired in the exporting country by an organization of the importing country to fulfill a specific contract), salesperson, and investors.

42. In issuing visas and residence permits, visa-granting authorities of most countries base their decision in part on a number of issues of general concern. Such issues may include the applicant's country of origin, health, the existence of a previous criminal record, or the existence of an earlier record with the country's immigration authorities. In some countries, religion, sex or race may even be factors for decision.

43. In addition, the decision to grant a visa or residence permit is based on the purpose of the visit as outlined above. Specifically, when dealing with "business visitors", most countries tend to limit the list of those that qualify as business visitors based on the type of occupation (for example, manager, high-level professional or salesperson), or the type or skill-intensity of the activity carried out while visiting (for example, participating in a conference,

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[25] Ibid.

[26] See Note on "Processes of recognition and harmonization of qualifications" prepared by the secretariat under item 3 (i) of the Work Programme, UNCTAD/SDD/SER/2.

engaging in contract negotiations, or attending a trade fair).[27]

44. Among applicants who seek temporary entry for gainful employment, a difference is usually made between occupations for which no labour certification tests are needed (not unlikely high-level managers entering as intra-company transferees, personnel with advanced technical knowledge, or "special knowledge" personnel, salespersons and investors), and other occupations for which a labour market test is required. In both cases, issuance of a visa or residency permit is usually linked to the granting of a work permit.

45. Typically, most countries set between 90 days and six months as the upper limit for such short-term entries. In addition, the usual rule is that short-term visitors cannot collect a wage or salary from a commercial entity based in the country that they are visiting, only from an entity based in their home country. In theory, most countries grant unrestricted entry to foreign nationals for short-term business visits (other than for reasons of public health, national safety, war, or other relevant exceptions). In practice, however, many countries show a marked tendency to control more tightly short-term business entries by workers, i.e., other than seasonal personnel, either by denying them entry or by granting very short time limits for their visit. When compared to short-term visits, longer temporary business entries are characterized by the fact that the entering individual usually seeks to establish temporary residence and to collect a wage or salary from a commercial entity based in the importing country. When dealing with these longer temporary entries, most countries are more restrictive. Some countries may readily grant temporary residency to senior executives, managers and key personnel of foreign companies, while tightly controlling the entry of dependent workers - typically through labour certification tests or equivalent measures that link the issuance of visas to local labour market conditions relative to the occupation of visa applicants.

46. Work permits are generally issued on the bases of two criteria. The first one, suggested above, refers to the occupation of the applicant; the second, to the degree of competition that the host country may be willing to allow or even encourage in its labour market. Many countries allow relatively unrestricted access for managers, "special knowledge" people, sales representatives or intra-corporate senior transfer personnel. Restrictions can be based either on occupation, or on the particular industrial or service sector involved, usually taking into account the prevailing level of unemployment with regard to the particular occupation or industry. Some labour market tests are transparent - for example, the applicant receives points relating to the criteria mentioned earlier and is issued a work permit based on his or her score; others use quotas, while some use a mixture of both transparent tests and quotas. Some criteria are obscure and highly discretionary. Job specific work permits are typically issued and the job location identified in the applicant's initial request and for a limited duration (typically one or two years, with the possibility of renewal).

47. As indicated above, different countries have different approaches to "economic needs" or "labour market" tests. In Italy the work permit is granted after checking that there are no Italians or other EC nationals available with the same occupational skills as those of the applicant. In Canada, employment authorizations are issued only after it is proven that the employment of the person in Canada will not adversely affect the employment opportunities for Canadian citizens or permanent residents of Canada or the settlement of a labour dispute. In Switzerland, the general rule is that temporary permits can be issued only if the Swiss-based employers cannot find an indigenous worker able and willing to fill the vacancy under conditions customary to the place and the occupation. In Germany, work permits are issued by local employment authorities based on the state of the local labour market. Local employment authorities must

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[27] This material draws heavily from the UNCTC/World Bank publication "Liberalizing International Transactions in Services", New York, 1992.

give priority to the interests of the domestic labour force and foreign nationals considered on an equal level with Germans (or EC-member nationals), against those of other foreign applicants.

48. Labour certification (or "economic needs") test, when required, have different characteristics:

- Objective labour certification testing may be based on criteria such as competition with domestic labour as measured by the unemployment rate for the occupation and in the region where the foreigner is to be hired, or proof that the employer has made an effort to hire a local employee but failed to find one; for example, labour permits are granted on the basis of the state of the local market, and not granted if a position can be filled by a national.

- A system of quotas may be based on industry; for example, agricultural labour certification is required from the United States Department of Labor with respect to temporary or seasonal agricultural workers. The process of certification involves determining whether the employment involves agriculture, whether it is temporary or seasonal in nature, whether the beneficiary is qualified for the job, whether the job is open to United States workers and whether qualified United States workers are available, whether the employment of a qualified foreign worker might have an impact on domestic labour markets, and whether the employment conditions of the beneficiary, including housing, will meet applicable requirements. In Switzerland annual quotas are used. For a permit to be granted, the employer must furnish proof of having made reasonable efforts to find an employee in the market, that the vacancy has been reported to the Swiss labour authorities and that it has been impossible to find an available employee within an appropriate period of time in the domestic labour market. Quotas are divided between the Confederation and the various cantons.

- A special work permit is used for seasonal workers in Switzerland, and it is typically issued only to workers from traditional recruiting areas such as Portugal, Spain, Italy and Yugoslavia, and only for employment in sectors characterized by seasonal work (construction, hospitality, agriculture) or in firms from other sectors that employ seasonal workers. The Canton labour market office determines the duration of the season for each firm, which should not exceed nine months. While cantons are entitled to issue 153,750 seasonal permits per year and the confederation 10,000 permits, there is a further restriction in that the total number of seasonal workers in Switzerland at any point in time should not exceed 110,000.

- Subjective test; in this case the national authorities - Immigration or Labour - are given broad discretionary power;

- Full industry or occupational ban.

49. In general, existing facilities are usually for a certain horizontal category of persons such as business visitors, intra-corporate transferees, sales representatives (services sellers), and specialists.

(a) Business visitors:

As noted above, most countries waive labour certification tests for business visitors. Many limit the list of those that qualify as business visitors, however. Limitations are usually based on the type of occupation or activity carried out while visiting (e.g., participating in a conference, engaging in contract negotiation, etc.).

For example, Australian temporary-resident and entry visas cover 24 categories, which include executives, specialists, working holidays,

entertainment, medical practitioners, etc. The executive category is designed to facilitate the admission of senior managerial personnel into Australia to improve local business practices and encourage the introduction and transfer of new skills and technologies. It covers only senior managers responsible for a company's entire operations - or at least a substantial part - in Australia. Standard labour market testing requirements are not mandatory for this category. Instead, the sponsors may provide a written statement detailing why the position cannot be filled from the local work force and why it must be staffed from overseas.

(b) Intra-corporate transferees:

Intra-corporate transferees are employees transferred to the importing country to work for the company's local commercial representatives and who intend to establish temporary residence; they are paid in the importing country and stay for periods ranging from several months to several years. Typically, most developed countries allow certain managerial and special knowledge personnel (also called essential personnel) relatively liberal access in terms of time (up to several years), but most of these countries forbid the market access of non-essential personnel, or permit it only under highly restrictive conditions. In cases where non-essential personnel are allowed in, stringent conditions that may be highly discriminatory (by country of origin) are normally imposed to screen applicants using labour market tests (to prevent foreign employees from competing with domestic employees).

This category in the United States covers only those employees who have been employed outside the United States by the qualifying organization for one continuous year within the preceding three years and who seek employment with a branch, subsidiary or affiliate of the same employer in a managerial or executive capacity, or one that involves specialized knowledge. The new statutory definitions for managerial and executive categories stress responsibility for managing important functions of the business rather than the number of employees supervised.

(c) Service sellers:

Service sellers are persons not based in the importing country who are (sales) representatives of a service provider and are seeking temporary entry for the purpose of negotiating for the sale of services or entering into agreements to sell services for the service providers. These representatives cannot engage in making direct sales to the general public or in supplying services themselves.

(d) Specialists:

Specialists are defined as those who have trade, technical or professional skills and who are responsible for or employed in a particular aspect of an organization's operations in an importing country. Skills are assessed in terms of applicants' employment experience, qualifications and suitability for the position. The initial residency period may be up to two years, with provision for extension provided the total stay does not exceed four years.

For employing foreign professionals performing services in specialty occupations, an employer in the United States is required to submit a labour condition application approved by the Secretary of Labor. In assessing the applications, the Department of Labor uses a complaint-driven enforcement process, comprising attestation by the employer, public examination of the labour condition application, and the ability of aggrieved persons to file complaints. Penal action can be taken against the employer based on the investigation, who may be barred from employing temporary aliens for at least one year. In order to implement the complaint-driven enforcement measures, the Department has

required that the firm must maintain a legal presence in the United States.

50. Another major condition restricting the national treatment of foreign workers is limitations on the licensing of foreign professionals. Foremost are restrictions based on citizenship and/or residency requirements.[28] Other restrictions on national treatment may include limitations on the living conditions and civil rights of foreign workers such as restricting entry of workers' dependents, limiting the opportunities for their dependents to work while overseas, placing restrictions on where foreign personnel can live, and so forth. Countries may also seek to restrict social, health, and other benefits of foreign workers, discriminating against them in the area of wages and salaries, restricting their access to training, and barring foreigners from certain occupations or positions of responsibility. Finally, the importing country may restrict overseas remittances by foreign employee on grounds of foreign exchange controls.

51. In Germany, foreign nationals who are employed on the basis of an independent contract by which a contractor undertakes to carry out a well-defined and well-specified assignment under a commercial agreement can obtain a residence permit for the duration of the work. Foreign nationals who serve foreign-based companies in Germany for less than three months and who keep their permanent residence abroad are not considered as gainfully employed in Germany under German law. Border-crossing permits are issued to foreign nationals who work within a border area and return each day to their domicile, if the applicant has been living in the neighbouring border area for longer than six months.

B. Provisions at the Occupational and Sectoral Level

52. In many countries, the immigration regulations may define situations in which an employment authorization may be issued without applying the labour certification test. Three main situations may be distinguished in this regard.

53. Immigration laws identify particular categories of professions for which temporary entry facilities are more liberal than the norms. In Germany, labour permits are not required by independent employees, transport operators who frequently cross borders, assembly and repair service personnel, artists, sports figures, students, scientists, and journalists. Business people participating in discussions or negotiations are not considered to be involved in gainful activity and also are exempt from such requirements.

54. In Spain, persons exempt from work permit requirements include academic personnel, staff of cultural institutions, accredited press correspondents, entertainers, clergy, scientists, technicians in government service, diplomatic officers, and officials of international organizations and their families.

55. The UK has a category of permit-free employment whereby the employee is registered with the Foreign Office rather than with the Department of Employment. Categories covered include the sole representatives of overseas firms which have no branch, subsidiary or other representative in the U.K; exchange teachers and language assistants; seamen committed to joining a ship; operational staff of overseas airlines, and seasonal workers in agricultural camps.

56. Labour certification testing may not be needed for some occupations with special characteristics. In Switzerland, certain persons can obtain temporary permits irrespective of existing quotas. Among these are foreigners who spend less than eight months per year in Switzerland and work as artists in certain defined fields. In Japan, professors, artists, foreign religious persons,

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[28] Note on "Processes of recognition and harmonization of qualifications" prepared by the secretariat under item 3 (i) of the Work Programme, UNCTAD/SDD/SER/2.

journalists, investors, business managers, and providers of legal or accounting services are typically granted entry for either six months, one or three years; entry for the remaining categories of visas is for either three months, six months, or one year.

57. The Immigration Control and Refugee Recognition Act of Japan provides for the issue of employment visas for 14 categories of people. They include skilled labour or specialization in various professions (e.g., foreign law, medical services, foreign accounting), intracompany transferees, entertainers and professors. There are numerous requirements that restrict the scope of visa categories, such as educational level and work experience. Foreigners are also required to demonstrate that they are receiving a salary no less than that a Japanese national would receive for the same job. In Germany, teachers of foreign languages in grade schools, professors of foreign languages in universities, and chefs that are nationals of the country in whose cuisine the employing restaurant is specialized are included in the professions that may enter because of special needs. In the United Kingdom, work permits are issued to skilled workers performing defined specialist functions as well as workers in categories subject to quotas and special conditions, such as hotel and catering workers, resident domestics and hospital auxiliaries.

58. The economies of many, if not all developed countries, are characterized by shortages in different parts of their labour markets. Thus, immigration laws and regulations also identify occupations that enter in answer to shortage or special needs. For example, in order to cope with nursing shortages the United States Immigration Nursing Relief Act of 1989 created a new visa classification (H1A) which exempted nurses from labour certification requirements. A H1A visa may be issued if health care authorities provide evidence to the Immigration and Naturalization Service that there will be a substantial disruption of service unless foreigners are admitted; that the employment of foreigners will not affect wages and working conditions; that foreigners will be paid the prevailing wage rate; that the health facility in question is striving to recruit and retain sufficient nationals or permanent residents for nursing positions; that there is no strike or lockout in effect, and that notice of the petition to employ foreigners has been presented to the bargaining representatives of registered nurses at the facility.

59. In New Zealand, residence and temporary work visas and permits may be obtained without first having to enquire whether there are any suitably qualified local people, in the case of the occupations contained in the Occupational Priority List (OPL). This list is updated at regular intervals and contains a mixture of professional, technical and trade occupations. In 1988, it included accountants, computer personnel, financial analysts, electrical and electronic engineering technicians, managers and decision-makers in activities relating to the stock market, banking, finance and marketing, as well as boat builders, cabinets makers, furniture upholsterers and offset printers. The list contains also a good number of health-sector occupations.

60. The construction crew of a foreign firm can be issued a work permit for a maximum of one year under three conditions: if the firm does not have a branch office, subsidiary or licensee in Switzerland; if the crew is required for a single construction project of a limited time; and if indigenous workers and technical equipment for the project cannot be found in the domestic labour market.

61. This study has focussed on the immigration regimes of developing countries, other than in the context of regional cooperation (see below). However, one main characteristic of such regimes is the link between investment and the movement of persons, in which foreign firms are allowed to import certain high-level employees and technicians, depending on the size of their investments. Most developing countries recognize that policies which restrict the import of skilled professionals may be self-defeating. For example, Malaysia, as noted above, has developed policies for exporting certain kinds of skilled and semi-skilled labour while importing skilled professionals.

III. INTERNATIONAL REGIMES FOR THE MOVEMENT OF SERVICES SUPPLIERS

62. While the Uruguay Round negotiations on trade in services constituted the first attempt to tackle movement of personnel as a trade issue at the multilateral level, countries have dealt with this issue in the context of free-trade agreements, customs unions, and regional and subregional agreements. However, a close look at the experience of some of these other agreements is indicative of the difficulties that most have met as they have attempted to truly liberalize the movement of personnel.[29]

A. Regional Arrangements

1. The European Community (EC)

63. Under various articles of the Treaty of Rome, the EC provides for the freedom of movement of workers and persons, freedom of establishment and movement of capital, and freedom to provide services within the Community. Migration-related provisions from The Draft Treaty on European Union signed in Brussels in December 1991 include free movement of persons, services and capital (Articles 48-73g).

64. Special rules apply for employment shorter than a year. For activities lasting fewer than three months, dependent workers are required only to have a passport or identity card and a statement from the employer. A temporary residence permit is also required for dependent employees working in a host country for less than one year but longer than three months. Independent workers - that is, intermediates in commerce, industry, and small craft enterprises - need no such statements or permits. For longer period, individuals are eligible for residency permits that are usually valid for a minimum of five years and are renewable.

65. It should be noted that while the initial EC treaty was quite generous in its formulation of the freedom of movement of individuals and workers, it has taken a long time for the Community to enforce that right. Successive Community court rulings, Council directives, and Community regulations have been required to further refine the definition of such freedom. Indeed, in the case of many professions, this took until the late 1980s.

2. The Common Nordic Labour Market (CNLM)

66. Current rules grant the right to be employed temporarily or permanently in a wage-earning capacity (meaning primarily "dependent" workers), without a labour permit or labour market test. Unlike other multicountry agreements which tend to grant more flexibility to independent workers than to dependent ones, the CNLM rules on independent workers are stricter. Individual countries reserve the right to apply different qualifications or limitations on managerial, self-employed, and professional workers. Only a limited group of medical professionals are free to provide services throughout the Nordic Market, either in an employed capacity or as independent practitioners. The Nordic Council is currently exploring the option of widening free movement to other medical professionals. Professionals associated with Nordic cooperation programs are typically granted freedom of temporary movement.

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[29] This section is based on "Working Party of the Trade Committee, Trade in Services, Note by the Secretariat, Information on Regulations Governing International Mobility of Suppliers of Services", (Paris: OECD/TD/88.377); see also, EFTA News 8/92 (September 1992).

3. The European Free Trade Association (EFTA)

67. The aim of the European Free Trade Association (EFTA) is to secure free trade in goods between member States through the elimination of duties and quotas and through the provision of a right of establishment for the purpose of management of economic enterprises, specifically, manufacturing or trading concerns. This right extends to short-term visits and temporary or permanent residency of entrepreneurs, managers, and workers who are "essential" to staffing such enterprises. The networks of bilateral agreements which exist between EFTA member States and neighbouring non-EFTA countries may explain why no attempt has been made to establish a comprehensive, common approach to movements of workers and other economic agents.

4. The European Economic Area (EEA)

68. On 2 May 1992, seven member States of the European Free Trade Association signed an agreement with the European Community, establishing the European Economic Area (EEA). The aim of the EEA Agreement is to establish not only free trade in goods but also free circulation for persons, capital and services, the so-called "four freedoms", within the area.

69. Part III of the Agreement deals with the free movement of persons, services and capital. The EEA provides for freedom of movement for workers, which entails the abolition of discrimination based on nationality between workers of EC member States and EFTA States as regards employment, remuneration and other conditions of work and employment (article 28, Chapter 1 on Workers and Self-employed Persons). This applies to all types of employment with the exception of certain job categories in the public sector.

70. Freedom of establishment is specifically mentioned in the Agreement. This means that nationals of any EEA country have the right to set up businesses, agencies, branches, etc., and to pursue activities as self-employed persons anywhere in the EEA.

71. The EEA Agreement guarantees the freedom to provide services on a non-discriminatory basis anywhere in the area. This includes the freedom to establish businesses in other countries and the freedom for professionals to pursue their trade outside their home country. The signatories have committed themselves to providing all EEA nationals with equal treatment. Craftsmen, professionals or other salaried workers of an industrial or commercial character, will have the right to pursue their work temporarily in the country where they provide services - and to do so under the same conditions as nationals of that country.

5. The North American Free Trade Agreement (NAFTA)

72. Although the provisions of the Chapter Sixteen of NAFTA, regarding "temporary entry for business persons", reflects the desirability of facilitating temporary entry on a reciprocal basis and of establishing transparent criteria and procedures for temporary entry, NAFTA does not create a common market for the movement of labour like the EC or the EEA. Each NAFTA country maintains its right to protect the permanent employment base of its domestic labour force, and to implement and enforce its own immigration policies.

73. The basic provision is that each country must grant temporary entry to business persons who are otherwise qualified for entry under applicable measures relating to public health, safety and national security. Temporary entry must be granted to business persons seeking to engage in one of the business activities set out in Schedule I, Chapter Sixteen of the Agreement, without having to obtain an employment authorization, provided that such persons otherwise comply with existing immigration measures applicable to temporary entry. Temporary entry may also be granted for engaging in activities not listed in Schedule I, if the persons fulfil the above conditions.

74. Each country will grant temporary entry to four categories of business persons:

(1) business visitors engaged in international business activities for the purpose of conducting activities related to research and design, growth, manufacture and production, marketing, sales, distribution, after-sales service and other general services;

(2) traders who carry on substantial trade in goods or services between their own country and the country they wish to enter, as well as investors seeking to invest a substantial amount of capital in that country, provided that such persons are employed or operate in a supervisory or executive capacity or one that involves essential skills;

(3) intra-company transferees employed by a company in a managerial or executive capacity or one that involves specialized knowledge and who are transferred within that company to another NAFTA country; and

(4) certain categories of professionals who meet minimum education requirements or who possess alternative credentials and who seek to engage in business activities at a professional level in that country.

75. Mexico and the United States have agreed to an annual limit of 5,500 Mexican professionals entering the United States. This number is in addition to those admitted under a similar category in U.S. law that is subject to a global limitation of 65,000 professionals, but which remains unaffected by NAFTA. The numerical limit of 5,500 may be increased by agreement between the United States and Mexico, and will expire 10 years after the Agreement goes into effect unless the two countries decide to remove the limit earlier. Canada has not set a numerical limit with respect to Mexico.

76. Chapter Sixteen also provides that the three countries will consult through a specialized working group on temporary entry matters. The group will consider providing temporary entry to spouses of business persons granted entry under NAFTA for periods of one year or more as traders and investors, intra-company transferees and professionals. As regards temporary entry for business persons, Chapter Sixteen of the NAFTA on "Temporary Entry for Business Persons" establishes the basic principles for temporary entry of business persons from another party in any of the four categories.

77. Under the transparency provisions of the Agreements, each country will publish clear explanations of procedures that business persons must follow to take advantage of the NAFTA temporary-entry provisions. The dispute settlement provisions of the Agreement may be invoked only if a country claims, on the basis of repeated practices, that another country has not complied with the temporary-entry provisions.

6. <u>Other Regional Arrangements</u>

78. The Economic Community of West African States (ECOWAS) was created by the Treaty of Lagos in 1975 for the promotion of cooperation and development in "all fields of economic activity". Chapter IV, on Freedom of Movement and Residence, introduces the free movement of citizens of member States within the Community. Article 27 calls on member States to abolish all obstacles to the freedom of movement and residence within the Community. The right of establishment is introduced in article 27.2. This mandate of the ECOWAS Treaty has been regulated in the Protocol Relating to Free Movement of Persons and the Right of Residence and Establishment, of June 1979. According to the Protocol, free movement means: "the right to accept offers of employment actually made or to move freely for this purpose within the territory of the member States, to stay there in order to carry on employment and to live there after having been employed". The Protocol grants the right of movement and residence without differentiating

between any sector of economic activity or workers category.[30]

79. The Treaty for the establishment of the Economic Community of Central African States provides that the citizens of member States shall be deemed citizens of the Community, and proposes a gradual streamlining of procedures for the freedom of movement and right of establishment within the community. The Protocol Relating to the Freedom of Movement and Right of Establishment of Nationals of Member States within the Economic Community of Central African States covers tourists, businessmen, workers and freelance professionals. The entry of businessmen is subject to their holding a certificate issued by the national chamber of commerce in each member State. Free movement of workers, subject to limitations on the grounds of public order, public safety and public health, includes the right to accept a job offered in a member State and to enjoy freedom of movement in the territories of member States for this purpose, to stay in the territories of the member States in order to work there in accordance with the laws and regulations governing nationals in such countries, and to remain in the territory after having finished a job, with a view to finding further work and becoming established there.

80. Within the ASEAN region, although there are no bilateral or regional agreements on migration for employment, its member States have agreed to visa-free, short-term, non-employment-related entry for ASEAN nationals. This arrangement has greatly encouraged regional tourism and business.[31]

81. Economic cooperation and integration among member countries of the Gulf Cooperation Council is embodied in the Unified Economic Agreement (UEA) of 8 June 1981, a comprehensive document which details the framework, mechanisms and principles of coordination, harmonization and integration of economic activity in the region. Chapter Two, article 8 of the Unified Economic Agreement includes four principles that constitute the basis for the liberalization and integration of services among member countries, among which are freedom of movement, work and residence.[32]

82. The Agreement on the Mobility of Labour within the Member Countries of the Council of Arab Economic Unity contains provisions on transparency, preferential treatment, and recognition of certificates and qualifications. The Agreement provides for countries to exchange at least once a year all data and information necessary for facilitating the mobility of labour among themselves, including information on working and living conditions, legal rules and admission procedures for work abroad, number of workers demanded by each country, and international commitments with respect to the mobility of labour. The member countries also agree to give priority to Arab workers and to permit them to transfer part of their salaries. The countries also agree to recognize the documents issued by authorized bodies as regards civil and legal status, together with the recognized scientific and professional qualifications.

83. The Treaty of 1973 that established the Caribbean Community and the Caribbean Common Market (CARICOM) presents a comprehensive treatment of services. Although the Treaty does not contain a clear mandate with respect to the free movement of capital and persons, the agreement introduces a limiting safeguard in the case of free movement of persons establishing that "nothing in this Treaty shall be construed as requiring or imposing any obligation on a member State to grant freedom of movement of persons into its territory whether or not such persons are nationals of other member States of the Common Market" (article 38).

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[30] Luis Abugattas, "Services as an element of co-operation and integration among developing countries: Implications for the Uruguay Round of Multilateral trade negotiations", in Trade in Services: Sectoral Issues, (UNCTAD/ITP/26), New York, 1989.

[31] See Pang Eng Fong and Linda Low, op. cit.

[32] See L. Abugattas, op. cit.

This leaves a wide discretionary margin to Member States with regard to the granting of free movement of persons in the context of possible services liberalization.[33]

84. The Central American Common Market (CACM) was established by the Treaty of Managua on 13 December 1960, involving Costa Rica, Guatemala, El Salvador, Honduras and Nicaragua. This Treaty contains two direct provisions on services. Chapter IV refers to "Transit and Transport" and article 15 grants the free transit of merchandise and transport units in the region. Furthermore, article 17 of Chapter VI grants national treatment to capital investment of nationals of other member States, and the right to organize and administer productive enterprises, financial or mercantile, or to participate in those concerns. Nevertheless, free movement of labour among member countries is not granted in the Treaty.[34]

85. The Cartagena Agreement does not include provisions on the free movement of persons among Andean countries. However, the Andean Group recently established a programme on integration in services aiming at creating a common intraregional market of services, including through the free movement of persons,[35] under which signatory countries will enter into negotiations to define the terms and conditions for the movement of persons.

86. The treaty establishing a Common Market between Argentina, Brazil, Paraguay and Uruguay (Mercosur), signed on 26 March 1991, involves the free movement of goods, services and factors of production between countries through, inter alia, the elimination of customs duties and non-tariff restrictions on the movement of goods, and any other equivalent measure. Article 5(d) establishes that during the transition period one of the main instruments for implementing in place the common market shall be "the adoption of sectoral agreements in order to optimize the use and mobility of factors of production and to achieve efficient scales of operation".[36]

B. Bilateral Agreements

87. Some countries are parties to bilateral instruments or agreements that permit the free movement of workers from selected countries.

88. Bilateral agreements between the European Community and other European countries (in Central, Eastern and South-Eastern Europe, including the CIS and Georgia), and among Mediterranean-Basin countries guarantee work permits, for the purpose of temporary contract work, on the basis of contracts between an employer of the country concerned and a company in the EC member State concerned.

1. The Canada-US Free Trade Agreement (FTA)

89. The sections governing movement of persons in the Canada-United States FTA aim to facilitate the provision of services by establishing a commercial presence, authorization to practise, and mutual professional recognition. The agreement provides for liberalization rather than immediate full freedom of movement. It also authorizes temporary entry for four categories of persons: business visitors, traders and investors, professionals, and intra-company transferees. In the treaty, temporary entry means "without the intent to

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[33] Ibid.

[34] Ibid.

[35] Final Act of the Global meeting on services held in Lima, Peru, on 18-20 January 1993 established a programme of services integration.

[36] See "Argentina-Brazil-Paraguay-Uruguay: Treaty establishing a Common Market", in U.N. document A/46/155, April 19, 1991.

establish permanent residence". Under the FTA, Canada and the United States agreed not to introduce labour market tests, quotas, or like conditions to restrict entry, while simplifying visa application and issuance procedures. In addition, the two countries agreed to expand the definition of those that can be admitted under the business visitor and the professional status by means of two extended list of occupations qualifying under these two categories (Schedules 1 and 2 of Annex 1502.1 of the Treaty respectively). Occupations and professions enjoying special treatment are detailed in these two lists, with highly skilled dependent employees accorded some of the privileges normally allowed for independent workers only. Medical professionals are excluded from these rules, and may enter for purposes of research or teaching only.[17]

2. The Trans-Tasman System

90. Although there are no specific agreements on labour movements between Australia and New Zealand, under a 1973 agreement, Australia and New Zealand allow visa and permit-free entry of each other's nationals (employed or tourists). Under the 1988 protocol on trade in services, the Trans-Tasman travel agreement between Australia and New Zealand allows nationals of one country access to the other country's market on terms no less favourable than those granted to its own nationals. Service providers are free to establish a commercial presence in the other market and to select their preferred form of presence. Service providers must comply with the host country's foreign investment policy with respect to foreign investment.

91. Labour-mobility-related bilateral agreements include the agreement between the United States and China on Cooperation in Science and Technology, which provides for the exchange of scientists, scholars, specialists and students, specifying inter alia that each country will put forth its best efforts to facilitate the prompt entry and exit of equipment and personnel. There is also the Agreement between the United States and Nigeria for the training of Nigerian technical educators, and an agreement establishing a binational commission between US and Morocco for Educational and Cultural Exchange. Specific laws deal with the employment of foreign seamen on national flag vessels. Most developed countries stipulate that key personnel must be nationals, but have no statutory requirements relating to the nationality of other crew members. Developing countries in general require their vessels to be manned entirely by nationals if available, though in some cases they are subject to qualifications.[18]

C. International Provisions, Types of Concessions

92. The movement of persons has also been addressed in the negotiations of a multilateral framework for trade in services in the context of the Uruguay Round. The draft General Agreement on Trade in Services (GATS) defines "trade in services" as including the "supply of services by natural persons of one party in the territory of another party". Thus commitments with respect to the movement of persons can be negotiated on a horizontal, sectoral or sub-sectoral basis. The "Annex on Movement of Natural Persons Supplying Services under the Agreement" defines the scope of the Agreement (i.e., that it does not apply to measures affecting natural persons seeking access to the employment market of a member nor to measures regarding citizenship, residence or employment on a permanent basis), and provides guidance for the negotiation of specific commitments. The inclusion of GATS in the Uruguay Round Protocol would thus establish such concessions with respect to the movement of persons as a part of the overall balance of trade rights and obligations rather than exclusively as a matter of immigration laws.

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[17] See "Processes of Recognition and Harmonization of Qualifications" UNCTAD/SDD/SER/2.

[18] See UNCTAD, "Conditions for Registration of Ships", Report by the UNCTAD secretariat, TD/B/AC.34/2, 22 January 1982.

93. However, in the context of the Group of Negotiations on Services (GNS), the conditional offers which have been made to date generally cover a small proportion of the visa categories dealing with the temporary entry of persons to supply services. Most countries which have made offers with respect to this "mode", particularly the major trading nations, have made horizontal offers usually covering intra-corporate transferees in the executive, managerial and specialist categories as well as business sales representatives. The fact that sectors or occupational categories are not indicated renders it difficult for any country to assess the value of the offer from the point of view of export opportunities.

94. The multilateral draft GATS offers a number of general opportunities to increase services-related production and trade for all contracting parties. It also contains a number of concepts, principles and rules dealing specifically with developing countries. Article IV entitled "Increasing Participation of Developing Countries" constitutes a recognition in the framework of the basic "asymmetry" in the situation of services in developed and developing countries and a commitment that developed countries would take concrete measures aimed at facilitating the increased participation of developing countries in world trade in services through negotiated specific commitments relating to inter alia, the liberalization of market access in sectors and modes of supply of export interest to them."[39]

IV. CONCLUSIONS AND RECOMMENDATIONS

95. A major impediment to the realization of the competitive potential of developing countries in labour-intensive services has been the barriers to the temporary movement of persons arising from immigration laws and regulations. For that reason, the draft GATS emerging from the Uruguay Round, which recognizes that the movement of "natural persons" to provide services into another country constitutes "trade" in services and that the conditions of access of such persons is a legitimate subject for the negotiation of trade concessions, should assist developing countries in increasing their participation in world services trade.

96. As noted above, the temporary movement of personnel across national borders is both significant and increasing in volume as a result of the growing globalization of markets, although the number of persons resident outside their home countries is still small in absolute and relative terms.[40] The impetus of growth in temporary movements of personnel has not been limited to personnel associated with service exporting firms, or exporting labour-services firms, but also stems from manufacturing exporters and investors needing to staff foreign operations with their own personnel and to maintain goods exported. Despite high unemployment levels, many developed countries are facing shortages of skilled labour in labour-intensive services. Consequently, although their immigration policies are tightening, these countries have an interest in attracting highly-skilled persons from developing countries. The developing countries, on the other hand, cannot afford to lose such assets. This suggests that developed countries and developing countries could have a mutual interest in arriving at more efficient arrangements which would provide the latter with the possibility of increasing their share of world trade in services, without increasing pressures for immigration while mitigating "brain drain".

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[39] See Trade Negotiations Committee, "Draft Final Act Embodying the Results of the Uruguay Round" (MTN.TNC/W/FA), 20 December 1991.

[40] See "Special Report on Jobs", *Newsweek*, 14 June 1993.

A. Policies at the National Level

97. Complementary policy measures at the national level may be called for if developing countries are to benefit from existing access for labour-intensive services or improved access to be negotiated within the framework of GATS or of subregional agreements. Many developing countries already have considerable experience in exporting labour-intensive services, in such areas as construction, engineering consultancy, maintenance, security, shipping, cleaning, education, and computer-related services. Specialized expertise related to manufacturing or natural resource extraction might also be "externalized" and organized in labour-intensive enterprises. This expertise could be examined more closely both in terms of the past experience of individual firms in export markets - to assess strengths and weaknesses and the specific problems encountered in terms of market access, national treatment, restrictive business practices, and so on - and in terms of the effectiveness (or lack thereof) of previous national policies for promoting the growth of some of these firms. This would assist developing countries in facilitating the penetration of export markets, accumulating expertise and technology, and maximizing profits and foreign-exchange income from the exporting country. A major study of successful experiences as well as possible new approaches within the context of the post-Uruguay Round framework would seem desirable. In addition, specific examples to illustrate problems encountered in the context of the export of specific services could be pointed out to the Committee.

98. For exporting countries, several considerations militate in favour of organizing the movement of their personnel abroad within an enterprise structure, aimed at providing a package of services. First, such exports can be structured not only in terms of unskilled labour but also of the managerial know-how and technical expertise that goes along with the service so as to provide a system from which the value added is much higher than the mere wages and salaries earned by guest workers. Particular opportunities for technology transfer could be facilited since firms and individuals could accumulate experience and expertise and obtain knowledge and techniques from working in collaboration with firms from developed countries that possess superior technologies.[41] Such advantages can be furthered by strategies that seek to upgrade skills and expertise through exposing personnel to increasingly challenging situations and rotating individuals so as to broaden the overall knowledge base. Such an approach would enable developing countries to continually increase their competitiveness in the export of services and develop the ability to participate in multinational projects assembled anywhere in the world.

99. Importing countries also have an interest in more efficient arrangements for trade in services through temporary labour movement. Labour-deficient countries that have used large guest-worker programmes over the years have subsequently encountered difficulties in absorbing the sizeable share of temporary guest workers who have stayed on as permanent immigrants. More structured trade in labour-intensive services would make it easier to limit the stay of temporary labour (for example, for the duration of the project in question) linking it to the provision of clearly defined skills. At the same time, greater security of access would be afforded to the exporting country while reducing the motivations for permanent immigration. Such trade would provide more flexibility from the point of view of importing countries as the movement of persons would respond much more readily to the vagaries of market demands. This would also require concessions with respect to commercial presence and national treatment, in that foreign firms in some countries are precluded from importing foreign workers.

100. In formulating policies with respect to the promotion of labour-intensive service firms and the development of export markets for them, countries that are

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[41] Software industries in some Asian countries have been successful in moving into the higher end of the industry through acquiring experiences in developed countries. See Thierry Noyelle, op. cit.

traditional exporters of labour might review conventional labour export schemes as promoted through bilateral agreements, as well as the promotion that has taken place in an unorganized fashion. It would also be useful for more developing countries to emulate those which have prepared inventories of the occupations of their nationals working abroad in order to identify areas of "comparative advantage".

101. Advances in telecommunications and information technology have opened up new possibilities for the export of labour-intensive services without the movement of persons. Much anecdotal information exists with respect to the exports of data entry, data processing, software and other "back-office" services by developing countries. There is very little information as to the actual and potential size of this trade and the type of economic and infrastructural policies which would provide elements for an export-strategy in this area. The Committee might wish to address this issue under item 3 (c) of its Work Programme, dealing with access to information networks.

B. Policies at the Regional Level

102. For many countries, the greatest export opportunities for labour services may exist in the context of regional markets that already fall under regional integration arrangements. Regional and preferential arrangements among developing countries have dealt with trade in services to different degrees, including the temporary movement of persons, some including rather liberal provisions in this respect. In the light of the lessons that may have been gained from the GATS negotiations, it would be useful to review some of these arrangements and identify the extent to which services have been effectively incorporated, so as to provide guidance in the possible extension of the arrangements to cover this mode of delivery by drawing upon the experience of the Uruguay Round negotiations. In this context it should be noted that Article V of the Draft GATS provides for the preferential liberalization of services within economic integration agreements, providing there is substantial sectoral coverage, that no mode of supply is a priori excluded (i.e., there must be provisions for the temporary movement of persons), and that national treatment is generally provided. Developing countries enjoy a degree of flexibility with respect to these criteria.

103. It therefore would be useful for countries that are members of integration agreements to identify sectors and sub-sectors in which there could be further liberalization of the temporary movement of persons. Item 3(j) of the Work Programme of the Standing Committee requests that it identify and analyse policies aimed at the promotion of regional, sub-regional and inter-regional cooperation on services, including among countries at different levels of development. Accordingly, submissions could be made by the secretariat or member States of such agreements with respect to their experience in the implementation of provisions governing the temporary movement of services suppliers.

C. Policies at the International Level

104. The Uruguay Round should result in new opportunities for exports of labour-intensive services from developing countries, provided that: (a) the concessions negotiated within the framework of the GATS provide access for natural persons in sectors of interest to developing countries, which in turn will, inter alia, reflect the ability of developing countries to formulate and effectively pursue requests to this effect, and (b) developing countries acquire the necessary means for promoting such exports in order to take advantage of market access opportunities through all modes of delivery. The inclusion of specific sectoral and occupational categories (in addition to "horizontal categories") in the Schedules of Commitments of the GATS should be a matter of priority. This would ensure that any tightening of immigration laws and regulations, provoked largely by high rates of permanent immigration and pressures of illegal migration, will not act as a barrier to trade in services

through the temporary movement of persons.

105. Upon conclusion of the Uruguay Round, the Standing Committee could review the commitments with respect to the temporary movements of persons with a view to identifying trade opportunities for developing countries.

106. It would also be useful to conduct a systematic analysis of immigration laws to identify their sectoral specificity. This could help developing countries to identify possible opportunities for expanding trade and facilitate the preparations of requests in negotiations within the framework of the General Agreement on Trade in Services. The proposal of the database on measures affecting service trade (TD/B/CN.4/26) will attempt to identify the sectoral and occupational aspects of immigrations laws.